



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board



Arnold Schwarzenegger
Governor

Office of Chief Counsel
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(916) 341-5161 ♦ FAX (916) 341-5199 ♦ <http://www.waterboards.ca.gov>

May 11, 2007

VIA U.S. MAIL AND EMAIL

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Environmental Justice
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Robert D. Wyatt, Esq.
Allen Matkins Leck Gamble Mallory
& Natsis LLC
3 Embarcadero Center, 12th Floor
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rw Wyatt@allenmatkins.com

Dear Ms. Newman and Messrs. Duchesneau, Hunsucker, León, Sommer, and Wyatt:

PETITIONS OF KWIKSET LOCKS, INC. KWIKSET CORPORATION, EMHART INDUSTRIES, INC., BLACK & DECKER, INC., AND BLACK AND DECKER (U.S.), INC. (AMENDED CLEANUP AND ABATEMENT ORDER NO. R8-2005-0053 FOR KWIKSET LOCKS, ET AL.) SANTA ANA REGIONAL WATER QUALITY CONTROL BOARD: EX PARTE INQUIRY
SWRCB/OCC FILE A-1824

As explained in my letter to Mr. Meeder and Mr. Wyatt, dated April 10, 2007, I conducted an inquiry into any potential ex parte contacts by current members of the State Water Resources Control Board (State Water Board) who may participate in any action in this matter and by staff members who may advise State Water Board members on such actions. As discussed in that letter, the inquiry I conducted goes beyond any applicable legal requirements for such an inquiry. Below is a description of the inquiry and the results thereof. In the interest of full disclosure, this letter is being sent to all parties, and will be posted on the internet and sent to the Lyris list for this matter. In addition, I am attaching hereto certain documents described. As explained in my April 10, 2007 letter, documents that were attached to the earlier disclosure letter from Tam Doduc (dated March 28, 2007) are not attached to this letter.

This letter describes the search and the documents and memoranda that are disclosed. The inquiry included a search of numerous State Water Board files and documents, and personal interviews with all State Water Board members and all members of the Advisory Team except support staff. The State Water Board members are the current membership (Tam Doduc, Arthur Baggett, Charlie Hoppin, Frances Spivy-Weber, and Gary Wolff). The Advisory Team includes four attorneys (Michael Lauffer, Elizabeth Jennings, Karen O'Haire, and James Herink), two engineers (James Maughan and Wennilyn Fua), and the top executives of the State Water Board (Dorothy Rice, Tom Howard, and Jonathan Bishop). There are also two clerical members of the Advisory Team (Dolores White and Gabrielle Durio), whose roles are purely as support staff and who perform only clerical functions. While prior Board members (who obviously will not participate in any decisions in this matter) were not queried, I personally queried all current Board members and Advisory Team members about all communications they had, including any communications relayed through prior Board members. I also oversaw a search of emails sent or received by each of the persons interviewed. The search was conducted to turn up any email concerning or mentioning any of the above petitions, and other key terms, including "perchlorate," "Rialto," and the names of the potentially responsible entities. I personally reviewed the emails that came up during the search.

After my review of documents and interviews, I compiled all of the documents and information I had received. In determining what to disclose, I did not disclose documents in the petition files related to this matter that had clearly gone to all parties. (Some of the documents disclosed herein may have in fact been circulated to all parties, but where that could not be determined with certainty such documents are disclosed.) For documents that were not part of one of these petitions, I excluded documents that were related to publicly noticed State Water Board meetings that clearly stated in the agenda that they concerned groundwater contamination in Rialto and which documents were widely available for public review. (The agenda items in this category were from State Board meetings on November 19, 2002 and April 30, 2003, and both involved allocation of funding for water protection projects. The information on these items may be found at <http://www.waterboards.ca.gov/wksmtgs/pastagn02.html>.) I also excluded from disclosure emails retrieved that did not have any relation to the perchlorate contamination in Rialto. For oral communications, I did not include communications that were made or received during the pre-hearing conference in this matter. For written and oral communications, I excluded confidential communications among and between current State Water Board members and Advisory Team members. I also excluded the documents that were already disclosed as attachments to Ms. Doduc's March 28, 2007 letter to the parties.

Search of State Water Board Files

I personally conducted a search of all documents that were in the following State Water Board water quality petition files: A-1491, A-1527, A-1732, A-1797, and A-1824. (For those files with associated petitions, e.g. A-1732(a), I searched all associated files.) I also directed the assistants to each State Water Board member to search for any documents in their custody that referred to perchlorate contamination in the Rialto area.

That search revealed four documents that are attached:

1. Letter from Senator Nell Soto to Mr. Baggett, dated July 22, 2002, regarding Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) Order No. R8-2002-0051. (Attachment 1.)
2. Memorandum from Gerard Thibeault to Karen O'Haire, dated August 14, 2002, regarding petitions A-1491 and A-1491(a). (Attachment 2.)
3. Email, dated July 14, 2006, disclosing an ex parte contact from Robert Wyatt to Karen O'Haire. (Attachment 3.)
4. Routing slip from Linda Adams to Tam Doduc, dated July 26, 2006, and attached letters regarding a letter from Barry Groveman and Michael Bradbury to the Department of Toxic Substance Control and responses thereto. (Attachment 4.)

It is anticipated that the State Water Board will receive non-evidentiary policy statements from interested persons. Pursuant to the requirements set forth in the Third Revised Notice of Public Hearing, interested persons are not required to serve their policy statements on all parties. In order to ensure access by all parties, the policy statements will be posted on the State Water Board's website.

Search of State Water Board Agenda items

The State Water Board clerk conducted a search of State Water Board agenda items since 2002 wherein perchlorate contamination in Rialto was discussed. That search revealed one document that is disclosed. On November 2, 2005, Gerard Thibeault made an informational presentation to the State Water Board concerning various issues before the Santa Ana Water Board. The presentation included some discussion of the Rialto perchlorate matter. The agenda for the State Water Board meeting, the powerpoint presentation that accompanied Mr. Thibeault's presentation, and a transcription of the presentation are attached. (Attachment 5.) It is noted that at the time of the presentation, there were no active petitions or other action issues before the State Water Board.

Interviews

I conducted personal interviews with all current State Water Board members and Advisory Team members. I asked each person a series of questions aimed at determining whether they had received oral communications concerning any matter related to the Rialto perchlorate contamination, including but not limited to the contamination, the potentially responsible parties, proposed or adopted enforcement orders, and any requests for action. If the interviewee had received any communications, I questioned him or her regarding the time and circumstances of the communication, who was present, and whether he or she responded. I prepared a memorandum describing all such communications. (Attachment 6.)

May 11, 2007

Emails

The search of emails revealed several emails that appear to have been sent between Board members or Advisory Team members and a person other than those individuals, but not to all of the parties in this matter. Excluded from the emails disclosed are those that are solely copies of newspaper articles. (Attachment 7.)

Sincerely,



Elizabeth Miller Jennings
Staff Counsel IV

Attachments

cc: James L. Meeder, Esq. **[via U.S. mail & email]**
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(Continued on next page)

cc: Mr. Gerard Thibeault **[via U.S. & email only]**
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Mr. Kurt V. Berchtold **[via email only]**
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Ms. Ann Sturdivant **[via email only]**
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Mr. Robert Holub **[via email only]**
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Erik Spiess, Esq. **[via email only]**
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Lyris List

Perchlorate Email Distribution List

ATTACHMENT 1

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ROOM 4074
SACRAMENTO, CA 95814-4900
(916) 445-6868
(916) 445-0128 FAX

822 N. EUCLID AVENUE
SUITE A
ONTARIO, CA 91762
(909) 984-7741
(909) 984-6695 FAX

215 NORTH "D" STREET
SUITE 101
SAN BERNARDINO, CA 92401
(909) 381-3832
(909) 381-0739 FAX

505 S. GAREY AVENUE
POMONA, CA 91766
(909) 469-9935
(909) 469-9206 FAX

California State Senate

SENATOR
NELL SOTO

THIRTY-SECOND SENATORIAL DISTRICT



COMMITTEES:
PUBLIC EMPLOYMENT AND
RETIREMENT (CHAIR)
GOVERNMENTAL ORGANIZATION
INSURANCE
LOCAL GOVERNMENT
TRANSPORTATION
VETERANS AFFAIRS
SELECT COMMITTEES:
DEFENSE CONVERSION,
RETENTION AND SPACE
FLIGHT INDUSTRIES (CHAIR)
URBAN ECONOMIC
DEVELOPMENT (CHAIR)
ALAMEDA CORRIDOR EAST

UCC F
C-14
A-14
A-149



July 22, 2002

ng - OLA - Tom Jones

Art Baggett, Chairman
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Dear Mr. Baggett:

I am writing to express my objection to the Requests made by Goodrich Corporation and Kwikset Corporation that the State Water Resources Control Board place a stay on the effects of the SARWQCB Executive Officer's Order No. R8-2002-0051. Any stay of this Order will be counterproductive to the process that I've initiated through the development of the Inland Empire Perchlorate Regulatory Task Force. This is nothing but a raw attempt by the polluters to hide under the desk of the State Water Resources Control Board—and I don't want them to think they can. It would also be harmful to the People of the State and will possibly exacerbate the perchlorate pollution in the affected areas. I support the Regional Board and the affected Water Agencies in their efforts to stem the tide of this pollution.

As you know, I am extremely concerned about the health and welfare of my constituents in the 32nd District. In that regard, I formed the Inland Empire Perchlorate Regulatory Task Force ("Task Force") which consists of The Santa Ana Regional Water Quality Control Board; the Cities of Colton and Rialto, the West San Bernardino County Water District, Fontana Water Company (collectively the "Water Agencies"), the Department of Health Services, the Department of Toxic Substances Control, the San Bernardino County District Attorney's office and others (including my office). The purpose of the Task Force is to quickly address the perchlorate pollution in the groundwater in the Fontana, Rialto and Colton area.

I give you this background so that you and your staff will understand the very serious nature of the perchlorate problem in this area which is totally unacceptable to me and my constituents.

Art Baggett
July 22, 2002
Page Two

Eighteen of the Water Agencies' wells have been shut down or are limited in their use due to the perchlorate pollution. Any delay in solving this problem is too long. I believe that the stay requests are designed to further defer resolution of this crisis and will only serve the interests of the Corporations bringing them to the detriment of the people. Your Board has first hand knowledge of the impact of the perchlorate contamination in my district as my staff has kept your offices informed, as has the staff of the Task Force. Let me put it this way. The PRPs have known about this for at least several years. Had they taken action then, we would not be in the position right now to heartily encourage them to support the efforts of the Task Force. Just to tell you how bad it is, one of the Water Agencies is projecting a shortfall of up to 15 million gallons per day in their service area. They may have to resort to distributing bottled water in my district! This is not acceptable. Because of this, one of the missions I've asked the Task Force to accept is to identify sources of replacement water.

The Order at issue is but the first step in the process of getting to the root of the problem. What we do know, however, is that this past year is the driest year known since records have been kept and the summer months are upon us. The 210 Freeway Extension project is in full swing and will bring more density and demand for water to this Region. Clean water is necessary for the physical and economic strength of this area, as well as the environmental health of the Region. Just recently a developer has considered pulling out of Fontana due to water supply questions, while another is looking to have their development redistricted to another water agency.

Finally, not only has one of the PRPs not been open to discussing their possible contribution to the area's groundwater pollution, but they actually came to my Sacramento office and expressed concern to my staff that my letter sent to the RWQCB actually stopped any progress toward their own voluntary clean up, which by the way no one can find any evidence ever existed—and then demanded that “the Senators’ letter be rescinded”. I've recently learned from the Task Force that beyond that, since the Order was issued to Goodrich by the RWQCB, Goodrich and Kwikset have ignored it entirely and have not even complied with the deadlines. Goodrich and Kwikset were required to submit plans to characterize the vertical and lateral extent of the perchlorate plume by July 8, 2002. Instead, the companies chose to fight the Regional Board and request a stay of the Order, so as to delay further investigations. So, while the families and the children of my district are possibly out there drinking jet fuel and propellants, these guys are arguing over legal strategies to avoid cleaning up this mess and telling elected officials like me that I am an obstacle to environmental clean up. Such tactics used on their behalf only prolong the time it takes to find a solution.

Again, I am glad that Jerry Thibeault took the initiative to issue the Order in response to my concerns and my letter to him, and I join him, the SARWQCB and the other members of the Task Force in asking that you deny the stay request so that this matter may move forward as

Art Baggett
July 22, 2002
Page Three

expeditiously as possible. Thank you for taking my concerns and those of the affected Water Agencies into consideration. Please feel free to call me with any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Nell Soto". The signature is fluid and cursive, with the first name "Nell" written in a larger, more prominent script than the last name "Soto".

NELL SOTO
Senator, 32nd District

NS:pk

ATTACHMENT 2



Winston H. Hickox
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Santa Ana Region

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (909) 782-4130 - FAX (909) 781-6288



Gray Davis
Governor



TO: Karen O'Haire, Staff Counsel
Office of the Chief Counsel
State Water Resources Control Board

FROM: Gerard J. Thibeault *Gerard J. Thibeault*
Executive Officer
SANTA ANA REGIONAL WATER QUALITY CONTROL BOARD

DATE: August 14, 2002

SUBJECT: PETITIONS OF GOODRICH AND KWIKSET (A-1491 AND A-1491(A))

We are in receipt of your letter of August 12, 2002 setting a deadline for the submission of the Regional Board's administrative record in this matter and its response to the petitions. The petitions challenge a Cleanup and Abatement Order ("CAO") issued by this office on June 6, 2002.

Upon receipt of the petitions, the Regional Board scheduled a hearing to be held on September 13, 2002. At that time, staff will present evidence that supports the CAO and both Kwikset and Goodrich will have an opportunity to provide evidence and arguments concerning the CAO. The Regional Board's hearing may result in an affirmation of the CAO. If so, the hearing transcript and the assembled administrative record can be forwarded to the State Board at that time. However, the Regional Board's hearing may also result in a rescission of the CAO. In that event, the petitions before the SWRCB would become moot.

For these reasons, we respectfully submit that the SWRCB's August 12, 2002 letter is premature. The Regional Board requests that review of the petitions of Goodrich and Kwikset be postponed pending the Regional Board's September 13, 2002 hearing on the CAO.

Thank you for your consideration of this matter. If you have any questions or concerns, please contact me at (909) 782-3284.

ATTACHMENT 3

From: Karen O'Haire
To: rwyatt@allenmatkins.com; Thibeault, Gerard
Date: 7/14/2006 11:39:37 AM
Subject: Re: Petitions A-1732, A-1732(a), A-1732(b), A-1732(c), A-1732(d)

At approximately 11:05 am this morning I received a telephone call from Robert D. Wyatt. Mr. Wyatt informed me that the Petitioners in the above matters would be responding to Gerard Thibeault's letter dated July 13, 2006 to Celeste Cantu and Michael Lauffer by Monday or Tuesday of next week.

In my letter dated June 28, 2006, I requested that all communications with this office be conducted in writing with copies to all parties. I expect all parties to comply with this request. Thank you.

Karen A. O'Haire
Sr. Staff Counsel
State Water Resources Control Board
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Sacramento, Ca. 95812

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ATTACHMENT 4



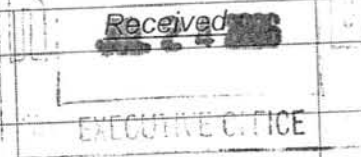
California Environmental Protection Agency



AGENCY-WIDE ROUTE SLIP

From: <u>Linda Adams</u>	Telephone: <u>324-9214</u>	BDO / Unit: <u>Cal/EPA</u>
Date Sent: <u>July 24, 2006</u>	Due Date:	
SUBJECT: <u>Fax - Perchlorate - City of Rialto</u>		
ACTION: <input type="checkbox"/> For Your Approval / Signature <input type="checkbox"/> For Your Review and Comment <input checked="" type="checkbox"/> For Information Only <input type="checkbox"/> For Control		
<input type="checkbox"/> Please Advise / Make Recommendation(s) <input type="checkbox"/> For Appropriate Action <input type="checkbox"/> Other (Specify)		
NOTE:		

ROUTE TO:

Name	Received	Completed
1. <u>Tam Doduc</u>		<u>7/25/06</u> <u>Copy to</u> <u>Melinda</u> <u>for Review</u> <u>OK for Tam</u> <u>to review</u> <u>7/27/06</u> <u>hmt</u>
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
Comments:		
Please return to:		

C O V E R

S H E E T

FAX

To: Linda Adams
Fax #: 916-324-0908
Subject: Perchlorate
Date: July 20, 2006
Pages: [14], including this cover sheet.

COMMENTS:

From the desk of...

Malinda Brown
Legal Secretary
Law Offices of Robert A. Owen
268 West Hospitality Lane, Suite 302
San Bernardino, California, 92408

909-890-9027
Fax: 909-890-9037

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JUL 20 2006 16:37

PAGE.01

C O V E R

FAX

S H E E T

To: Linda Adams
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Subject: Perchlorate
Date: July 20, 2006
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COMMENTS:

From the desk of...

Malinda Brown
Legal Secretary
Law Offices of Robert A. Owen
268 West Hospitality Lane, Suite 302
San Bernardino, California, 92408

808-890-9027
Fax: 808-890-9037

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Robert A. Owen
City Attorney

City of Rialto

CALIFORNIA
Office of the City Attorney

July 20, 2006

VIA TELECOPY AND FIRST-CLASS MAIL

Linda Adams, Secretary
California Environmental Protection Agency
P.O. Box 2815
Sacramento, CA 95812-2815

Re: Comments of the City of Rialto about the January 19, 2006 Letter to Timothy Swickard Hand-Delivered to You by Barry Groveman

Dear Ms. Adams:

We are advised that one of the City of Rialto's former lawyers, Barry Groveman, recently hand-delivered to you a copy of a January 19, 2006 letter printed on Weston Benshoof Rochefort Rubalcava MacCuish LLP letterhead¹ signed by Michael D. Bradbury, co-signed by Mr. Groveman of Musick Peeler & Garrett LLP, and addressed to Timothy J. Swickard, Chief Counsel to the Department of Toxic Substances Control ("DTSC"), concerning perchlorate contamination in the Inland Empire (the "Letter"). (A copy of the Letter is attached for your convenience.)

I write to notify you that Mr. Groveman does not represent Rialto, and the dissatisfaction expressed in the Letter with respect to the efforts of our local Regional Water Quality Control Board, Santa Ana Division ("Regional Board") to respond to the perchlorate contamination are contrary to Rialto's own views. Rialto is keenly aware of the status of the cleanup efforts, as the plume lies beneath Rialto, and Rialto's water supply is the most severely impacted of all the purveyors.

¹The letter does not identify Weston Behshoof's client. Weston Benshoof briefly represented Pyro Spectaculars, Inc., one of the potentially responsible parties identified by the Regional Water Quality Control Board, Santa Ana Division, and a defendant in Rialto's CERCLA suit entitled: *City of Rialto et al. v. United States Department of Defense, et al.* ED CV 04-00079 VAP, it no longer does so. We do not know who Weston Benshoff currently represents.

JUL-20-06 04:00PM FROM: LAW OFFICES OF ROBERT A. OWEN 1-340 03714 7-115

Linda Adams, Secretary
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Page 2

When I spoke to Mr. Swickard about the Letter on June 7, 2006, he indicated that he thought Mr. Groveman was attempting to persuade DTSC to take away management of the cleanup from the Regional Board. Rialto believes that changing oversight of basin cleanup from the Regional Board to DTSC, or to a perchlorate "czar" would result in a tremendous loss of institutional knowledge, and waste of time and resources. Further, Rialto has had no indication from Goodrich (which, notably, did not sign the Letter) or any other potentially responsible parties that they are ready or interested in becoming the leader of a group of settling PRPs in Rialto's federal cost recovery litigation.

Another explanation for positions asserted in the Letter, which the drafter attributes to Rialto, is that since Rialto terminated Mr. Groveman as its special counsel on perchlorate matters, he has relentlessly opposed Rialto's attempts to respond to the perchlorate contamination within its jurisdiction, threatened to bring a suit to prevent implementation of the County of San Bernardino's ("County") Interim Remedial Action Plan that was developed in response to the Regional Board's Cleanup and Abatement Order issued to the County, and he has even taken steps to block Rialto's proposed settlements with smaller potentially responsible parties.

Against that background, Rialto asks that you disregard any suggestion in the Letter that Rialto shares the views expressed in the Letter. Contrary to the views expressed in the Letter, Rialto is pleased with the progress of the Regional Board's efforts, and does not want the lead agency changed. The Regional Board is systematically requiring information to advance the characterization of the Rialto Basin, which will lead to an effective cleanup. It is on the verge of issuing additional orders against more significant polluters, which will bring us closer to a comprehensive cleanup plan.

Rialto supports the Regional Board in this effort, and appreciates its commitment of resources towards resolving the perchlorate problem. So far, under the competent direction of the Regional Board's leadership:

- the County accepted the Cleanup and Abatement Order and the Replacement Water Order issued in favor of Rialto by the Regional Board. The County has prepared an Interim Remedial Action Plan, designed and installed a number of test wells, generated substantial data on the plume of perchlorate emanating from the Mid-Valley Sanitary Landfill ("Landfill"), negotiated an agreement with Rialto regarding the implementation of the Replacement Water Order, and installed a barrier well system at a total cost in the millions of dollars. The barrier well system, which is now partly operational, should capture the entire perchlorate plume which the County believes is attributable to its Landfill. Treated water is being delivered to Rialto pursuant to the Replacement Water Order;

Linda Adams, Secretary
July 20, 2006
Page 3

- Nine entities have submitted requested information to the Regional Board in response to Water Code section 13267 investigation letters;
- Nine additional entities have performed field investigations, generating data which has supported detailed basin characterization;
- Five field investigations are still ongoing: three on or near the 160-acre site, one on a site near the Landfill, and one (directed by the County) in and around the plume emanating from the County's landfill; and
- More orders will be issued soon against additional polluters.

The Letter's assertion that the Regional Board has been lax in issuing replacement water orders in favor of Fontana Water Company ("FWC") and West Valley Water District ("WVWD") is unsupported. Further, it fails to mention that both of those purveyors actually withdrew their request for a water replacement order. As the attached Regional Board letter shows, the failure of the Regional Board to issue a Replacement Water Order in favor of FWC and WVWD is attributable to the inability of those entities to show they are entitled to that Order, not to the alleged misconduct or lack of work ethic by Regional Board staff.

Conclusion

Rialto would welcome the opportunity to brief you in greater detail on the perchlorate response in the Rialto Basin groundwater supply before you arrive at any decisions regarding the measures requested in the January 19th letter. Feel free to telephone me to discuss this matter further.

Very truly yours



Robert A. Owen

Enclosures: (1) January 19, 2006 Weston Bensch of Rochefort Rubalcava MacGuish LLP letter to Timothy J. Swickard
(2) December 16, 2004 Regional Board letter regarding FWC and WVWD's request for Replacement Water Orders

cc: Honorable Mayor and City Council, City of Rialto
Honorable Mayor and City Council, City of Colton
Gerard Thibeault, Executive Officer, Regional Board

Linda Adams, Secretary
July 20, 2006
Page 4

Jorge Leon, Esq.
Timothy Swickard, Esq.
Barry Groveman, Esq.
Michael Bradbury, Esq.
Art Kidman, Esq.
Gerald Eagans, Esq.
Congressman Joe Baca
Joel Moskowitz, Esq.
Robert Jocks, Esq.
Scott Sommer, Esq.
Susan Trager, Esq.
Christian Carrigan, Esq.



WESTON BENSHOOF
ROCHEFORT RUBALCAYA MACCUISH LLP
ATTORNEYS AT LAW

COPY

January 19, 2006

(009) 330-2803
mbr@wbrubmac.com

HAND DELIVERED

Timothy J. Swickard, Esq.
Chief Counsel
Department of Toxic Substances Control
P.O. Box 806
Sacramento, CA 95812-0806

Re: Perchlorate Contamination in the Inland Empire

Dear Mr. Swickard:

The Colton, Fontana and Rialto area of the Inland Empire is facing a groundwater pollution crisis that has caused severe water supply problems in the region. Specifically, the chemical perchlorate, which impairs thyroid function, especially in minors and pregnant women, is polluting the groundwater aquifers on which the West Valley Water District, the Fontana Water Company ("Water Providers") and other water providers (including the Cities of Colton and Rialto) rely and presents an imminent and substantial endangerment to health and the environment. The City of Rialto, for example, has declared two public health emergencies related to the water supply crisis. The perchlorate pollution has forced the Water Providers and the other impacted water agencies to shut down and/or restrict use of twenty-one (21) groundwater production wells in the area, representing approximately 52% of the region's water supply, which serves a population of over 500,000 people. In addition, more groundwater production wells may need to be shut down in the near future as the pollution continues to spread.

The Water Providers have responded to the water crisis in a number of ways including the completion of an interim settlement agreement with a major defense contractor that is potentially responsible for a significant portion of the pollution. State and federal funds have also been pursued with considerable assistance from state and federal officials, however the amount needed to restore crucial water supplies is substantial. The regulatory agencies have not been successful in promoting a solution and in fact have hindered solutions by inaction and the weak application of existing

333 SOUTH HOPE STREET • SIXTEENTH FLOOR • LOS ANGELES, CA 90071 • TEL 213 576 1000 • FAX 213 576 1100

2801 TOWNSCOTE ROAD, SUITE 215 - WESTLAKE VILLAGE, CA 91361 • TEL 805 497 9474 • FAX 805 497 8304

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www.wbcounsl.com

Timothy J. Swickard, Esq.
January 19, 2006
Page 2

enforcement tools. The most troubling issue is the lack of characterization of the nature and extent of the plume of contamination which some have estimated to be traveling at the rate of 2 to 3 feet per day and can knock out remaining water supply wells without warning. In addition, some water providers are not capable of receiving potable drinking water from the Metropolitan Water District or the California State Water Project, which further limits the overall amount of usable water in the region. Finally, but equally important, alternate water supplies are not available in this region. The combined effect of inadequate infrastructure, no alternate water supplies, lack of information about the plume and significance of the contaminant have resulted in unique and severe conditions. This regulatory paralysis represents a missed opportunity to achieve bold progress in addressing the water crisis affecting over 500,000 people in the Inland Empire. With a more defined mandate by Cal-EPA, dramatic results can be achieved.

The water crisis also is having a negative impact on the region's economic growth. It is critical to push for solutions that facilitate cooperation between water providers and responsible parties rather than massive multi-party litigation that spans years. Critical to such solutions is the effective use of enforcement strategies by the regulatory oversight agencies under the umbrella of Cal-EPA. On the other hand, failure to utilize such strategies due to bureaucratic inertia can have the reverse effect, because the inaction provides an incentive to become recalcitrant. Here, the Water Providers have worked successfully with a major responsible party willing to lead a cooperative group to negotiate solutions beneficial to the region. If successful, this will avoid litigation. However, not one of the other identified potential responsible parties has been willing to participate and the lack of enforcement has seemingly justified their recalcitrance. The lack of timely and effective enforcement by the Regulators has forced the Water Providers to look to this Administration for direct assistance. The following are the specific objectives that the Water Providers are seeking to achieve through the Administration:

1. **Administration Recognition of the Perchlorate Pollution:** The Water Providers and other affected water agencies such as the Cities first want to educate the Administration on the unique circumstances associated with the perchlorate pollution impacting the Inland Empire.¹ The Water Providers want to set aside politics and get down to the business of developing

¹ The Water Providers met with the former Secretary of the California EPA, Terry Tamminen and his staff, to discuss related issues.


WILSON BERNHOFF
ROCHEFORT RUBALCABA MACCUNNIE
ATTORNEYS AT LAW

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Timothy J. Swickard, Esq.
January 19, 2006
Page 3

solutions, including working with those industrial parties, such as Goodrich, that appear ready to cooperate.

2. **Specific Action by the Administration:** Once the Administration is informed of the specific issues associated with this crisis, the Water Providers believe that the Administration can take specific actions and provide assertive leadership to remediate perchlorate contamination in the Inland Empire. By bringing its full weight, authority and prestige, the Administration can assert leadership and take charge of a chaotic and economically debilitating crisis and lead the adoption and implementation of a remedy. The administration can take the following specific steps, among others, to address the perchlorate crisis:
- *Appoint a Perchlorate Remediation Czar* - The Perchlorate Remediation Czar can convene and chair an ad hoc soil and groundwater remediation authority. The Czar can use this remediation authority to fast-track the development of an interim and long-term remediation plan and promote claims remediation without expensive and time consuming civil litigation.
 - *Partnership with Other Water Entities* - The Administration, through the Czar, can partner with the regional water quality authority, the local Watermaster and Water Providers. This partnership, among other things, can: (i) provide a unified voice for remediation; (ii) mandate needed technical assessments of the pollution, and (iii) maximize the use of existing administrative resources.
 - *Establish Safe-Harbor Provisions* - The Administration can develop safe-harbor provisions for potentially responsible parties ("PRPs"). Such safe-harbors can include: (i) securing dollar-for-dollar credit; and (ii) adding additional leverage associated with state and federal funding.
 - *Implement Interim Remedy* - The Administration can promote the implementation of an interim remedy that can include: (i) installation of wellhead treatment systems; (ii) the development of a replacement water plan that includes the relaxation of barriers to water delivery among local water agencies and the implementation


 WESTON BENSON
ROCHESTER, MINNESOTA
PERCHLORATE

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Timothy J. Swickard, Esq.
January 19, 2006
Page 4

of a replacement water fund to offset alternate sources of water supply; and (iii) the promotion of interconnections between regional water systems.

- a. *Implement Long-Term Remedy* - The Administration can promote the implementation of a long-term remedy that can include: (i) a coordinated extraction plan; (ii) enhanced wellhead treatment; (iii) restoration of the contaminated water supply; and (iv) relieving PRPs from the obligation of implementing separate remediation systems.
- b. *Water Orders* - A "Water Order" was recently issued by the Central Region (RWQB) against the Olin Company for "perchlorate" contamination impacting waters of the State. This Order is on "all fours" with what we desperately need in the Inland Empire. In the Inland Empire the facts and empirical data relating to one of the main PRP's - the "Mid Valley Landfill" are much more compelling than the facts that caused the Order to be issued against Olin. A similar order to the Mid Valley Landfill, and other PRPs, (which can clearly be issued pursuant to Water Code section 13304), would make all the difference to the Water purveyors, Cities and the people in the region. Most important it will get the ball rolling to provide sustainable water and to provide incentives to PRPs to begin serious discussions with the impacted Water Purveyors -- as the Goodrich Co has done. Goodrich is willing to lead the group if the other PRPs will enter the process. The other PRP's prefer to deal with the much less aggressive process of the Santa Ana RWQCB -- with very minor if any threat of any penalty. The list of actions taken by the RWQCB to date demonstrates much more motion than action. If you look into the letters and minor directives they have issued (beyond the titles and lists), you will easily reach the same conclusion. Action and results are desperately needed. Also attached is the order that was jointly issued to Shell Oil, et al. several years ago by USEPA and the LA RWQCB which is still in effect. That Order concerned MTBE contamination that impacted wells operated by the City of Santa Monica and the Southern California Water Company. It has made a major difference in the resolution of that matter.

 WESTON BENSHOOF
ROCKFORD RURAL WATER MACQUISH W
PRESIDENT OF CWT

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Timothy J. Swickard, Esq.
January 19, 2006
Page 5

Thank you for agreeing to meet with us. We look forward to working together to solve this unprecedented water quality problem for the State of California and the Inland Empire.

Very truly yours,

Barry C. Groveman
MUSICK, PEELER & GARRETT LLP

Michael D. Bradbury
WESTON, BENSHOOF, ROCHEFORT,
RUBALCAVA & MacCUISH LLP

MDB/prw
Enclosures

748441.1

 WESTON BENSHOOF
ROCHEFORT RUBALCAVA MACCUISH LLP
ATTORNEYS AT LAW



Terry Tumbalson
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Central Coast Region

Internet Address: <http://www.cwrqcb3.com>
105 Avenida Plaza, Suite 101, San Luis Obispo, California 93401;
Phone (805) 448-0147 • FAX (805) 443-0397



Arnold Schmitzer
General

July 6, 2004

Mr. Richard W. McClure
Olin Corporation
Environmental Remediation Group
PO Box 248
Charleston, TN 37310-0248

Certified Mail No. 7000 0520 0012 0359 6985

Return Receipt Requested

Mr. Jay McLaughlin
President and CEO
Standard Fusee Corporation
PO Box 1047
Barton, MD 21601

Dear Messrs. McClure and McLaughlin:

**SLIC: 425 TENNANT AVENUE, MORGAN HILL; CLEANUP OR ABATEMENT ORDER
NO. R3-2004-0101, 425 TENNANT AVENUE FACILITY, SANTA CLARA COUNTY**

Enclosed is Cleanup and or Abatement Order (Order) No. R3-2004-0101. This Order directs you to supply uninterrupted replacement water to well owners with perchlorate-contaminated wells. Olin Corporation and Standard Fusee Corporation (hereafter "Discharger") have been named in this Order because it is or was the sites' owner and or operator.

This Order establishes criteria for supplying interim and long-term uninterrupted water service to private well owners with perchlorate-contaminated wells. The Order requires Discharger to provide interim uninterrupted water to well owners whose wells meet two important criteria. The first criteria is for wells that test at or higher than 4ppb. Well owners with wells that test at or higher than 4 ppb shall be supplied interim uninterrupted water service (currently bottle water). The Order also establishes a mechanism for stopping bottled water supply to these wells and includes follow up monitoring. The second criterion is for wells that test less than 4 ppb. For those wells, Discharger may cease supply of uninterrupted water service if, after four quarters of testing, the results remain less than 4 ppb. However, the Order will still require additional testing to monitor perchlorate groundwater concentrations.

The Order also requires Discharger to begin implementation of long term uninterrupted water supply service for wells with concentrations at or above 10 ppb. As part of this requirement, Discharger will be submitting a time schedule for long-term uninterrupted water supply implementation. In addition, Discharger is required to submit a detailed plans for long term uninterrupted water supply

California Environmental Protection Agency

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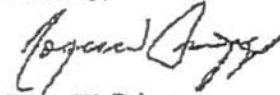
July 6, 2004

options for wells with concentrations ranging from 4 to 9.9 ppb. Once this plan is Approved by the Executive Officer, Discharger will be required implement the plan.

As noted in the Order, any person affected by the Order may petition the State Water Resources Control Board for review within 30 days. (California Water Code §13320.) You may also request a Regional Board hearing by contacting Staff Counsel Lori T. Okun by facsimile to (916) 341-5199 within 30 days of receipt of this letter. The hearing will be conducted by the Regional Board at a public meeting or by the Executive Officer, as determined by the Executive Officer. A hearing by the Executive Officer may consist of a review of the written record after interested parties have had the opportunity to submit any additional written materials. Any hearing will be open to Olin Corporation, Standard Fusce Corporation and other interested persons. A request for a Regional Board hearing does not toll or otherwise extend the 30-day period for filing a petition with the State Board pursuant to Water Code Section 13320.

If you have questions, please call David Arthey at (805) 542-4644 or Eric Gobler at (805) 549-3467.

Sincerely,



Roger W. Briggs
Executive Officer

S:\91\OC\Regulated Sites\Santa Clara Co\Olin\OLIN-425 TENNANT AVE\SUB\CAQ\CAQ vms.doc

Attachment: Order No. R3-2004-0101

cc via E-mail:

Ms. Lori Okun
Office of the Chief Counsel
State Water Resources Control Board

Mr. Jim Ashcraft
City of Morgan Hill

Mr. Rich Chandler
Kornex

Mr. Peter Forest
San Martin County Water

Ms. Sylvia Hamilton
PCAO

Mr. Tom Mohr
Santa Clara Valley Water District


PCAG Members

Elected Officials

U.S. Environmental Protection
Agency

Mr. Steven L. Hoch
Hatch & Parent

California Environmental Protection Agency

 Recycled Paper



California Regional Water Quality Control Board

Santa Ana Region



Terry Tamminen
Secretary for
Environmental
Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288
<http://www.waterboards.ca.gov/santana>

Arnold Schwarzenegger
Governor

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DEC 17 2004

LAW OFFICES OF
SUSAN M. TRAGER

December 16, 2004

Mr. Steven J. Elie
Musick, Peeler & Garrett LLP
One Wilshire Boulevard, Suite 2000
Los Angeles, CA 90017-3383

PETITION OF WEST VALLEY WATER DISTRICT AND FONTANA WATER COMPANY
FOR ISSUANCE OF WATER REPLACEMENT ORDER TO THE COUNTY OF SAN
BERNARDINO

Dear Mr. Elie:

We have received your letter of December 9, 2004. While we won't purport to respond to everything in that letter (or in your October 22, 2004 letter), it appears some clarification is necessary in order to help facilitate timely consideration of the subject petition.

You initiated this process by filing the subject petition on September 14, 2004. Given the importance of this matter, Board staff scheduled your petition for Board consideration at the earliest available Board meeting (November 5, 2004). You then requested postponement of the scheduled November 5 hearing. As we understand your letters, you now believe additional data are necessary to support your petition. Board staff have assisted you in obtaining additional data that you have requested.

We have not yet been provided with the technical basis that would support your petition, and you have not clearly defined the extent of the data set necessary for you to present your case to the Board. Given this uncertainty, we believe it would be appropriate for you to notify us, consistent with the timing constraints specified in my November 23, 2004 letter, when you are ready for us to schedule a hearing on your petition.

Your letter also expressed concerns with the hearing structure specified in the October 18, 2004 Notice of Hearing in this matter. Given the unusual nature and form of your petition, we believe that the structure outlined in the Notice will afford the Board and staff the best opportunity to thoroughly consider the issues that you ultimately raise in the hearing.

California Environmental Protection Agency



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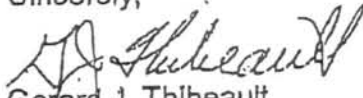
Steven J. Elle

-2-

December 16, 2004

If you have any questions, please call me at (951) 782-3284, Kurt Berchtold at (951) 782-3286, or Jorge Leon at (916) 341-5180.

Sincerely,



Gerard J. Thibeault
Executive Officer

CC: Regional Board
Jorge Leon, SWRCB – OCC
Barry C. Groveman, Musick, Peeler & Garrett LLP
Joel Moskowitz, Moskowitz, Brestoff, Winston & Blinderman LLP
Anthony Aralza, West Valley Water District
Michael J. McGraw, Fontana Water Company
Gerald J. Black, Fontana Water Company
Timothy J. Ryan, San Gabriel Valley Water Company
Gerald Eagans, Redwine & Sherrill
Michael Whitehead, San Gabriel Valley Water Company
Susan Trager
Danielle Sakai, Best, Best & Krieger LLP

California Environmental Protection Agency



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ATTACHMENT 5

**STATE WATER BOARD****WORKSHOP**

Wednesday, November 2, 2005 – 10:00 a.m.
Coastal Hearing Room – Second Floor
Joe Serna Jr. / Cal/EPA Building
1001 I Street, Sacramento

REVISED (SEE ITEMS #2, #3 & DELETED #8)

PUBLIC FORUM

Any member of the public may address and ask questions of the Board relating to any matter within the State Water Board's jurisdiction provided the matter is not on the agenda, or pending before the California Water Boards. *Presentations at the Public Forum will be limited to 5 minutes or otherwise at the discretion of the Chairman.*

INFORMATIONAL ITEMS

1. Informational presentation by Gerard Thibeault, Santa Ana Water Board Executive Officer, on Regional Board issues
2. Informational item on water quality issues associated with California Port operations
3. Informational presentation by Michael Lauffer, Chief Counsel, regarding *ex parte* communications

CONSENT AGENDA (Items 4 - 7)**FINANCIAL ASSISTANCE**

4. Consideration of adoption of a *State Revolving Fund Program* reimbursement resolution
5. Consideration of a resolution adopting the *Small Community Groundwater Grant Program* Competitive Project List
6. Consideration of a resolution authorizing the San Francisco Bay Water Board's request for additional funding in the amount of \$400,000, from the State Water Pollution Cleanup and Abatement Account for the Gambonini Mine cleanup in Marin County

WATER QUALITY

7. Consideration of a resolution authorizing the Executive Director to execute two grant agreements with the U.S. Department of Energy for regulatory oversight at sites in the San Francisco Bay Region

REGULAR AGENDA (Items 8-9)**WATER QUALITY**

8. Consideration of a resolution adopting the California Ocean Plan Triennial Review and Work Plan 2005-2008 (Written comments are due by 5:00 p.m., November 4, 2005)
9. Consideration of a resolution approving an amendment to the Water Quality Control Plan for the San Diego Region to establish a total maximum daily load for total nitrogen and total phosphorus in Rainbow Creek

NOTICE OF PUBLIC HEARING**WATER QUALITY**

8- Goods movement through California Ports**CLOSED SESSION ITEM**

(Note: Closed Sessions are not open to the public)

LITIGATION

(This closed session is authorized under Government Code section 11126(e)(1).)

The Board will meet in closed session to discuss ongoing litigation in the case of *Yuba County Water Agency v. State Water Resources Control Board and consolidated cases* (San Joaquin County Superior Court, Case No. CV026505, previously Yuba County Superior Court Case Nos. YCSCCVPT 03-0000589, 03-000591, 03-0000627, 03-0000634 and 03-0000635).

The Board encourages submittal of written comments. Unless otherwise specified, written comments must be received by 5:00 p.m., October 26, 2005 and will not be accepted after that time. Time limitations on presentations may be imposed.

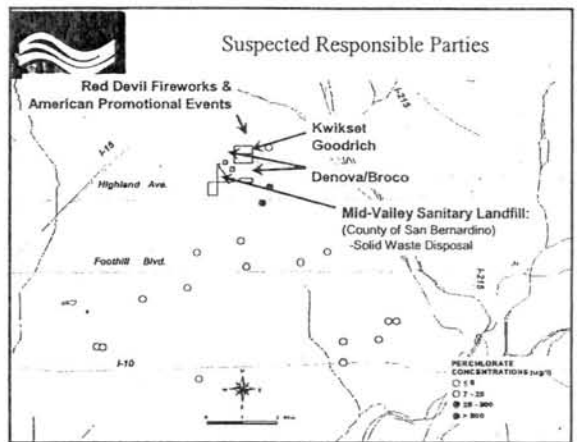
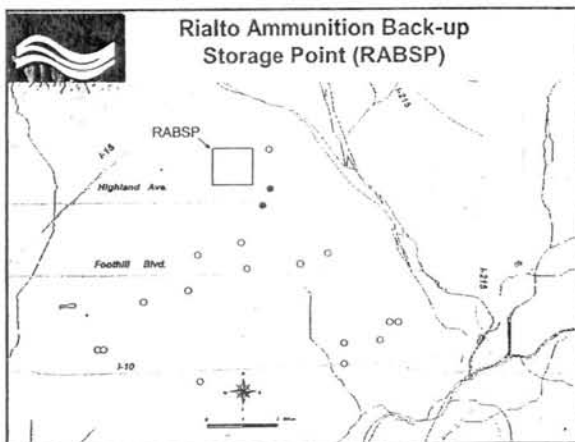
See "Presentations to the Board" at <http://www.waterboards.ca.gov/board.html>. **Agenda items will be electronically available after October 24, 2005.**

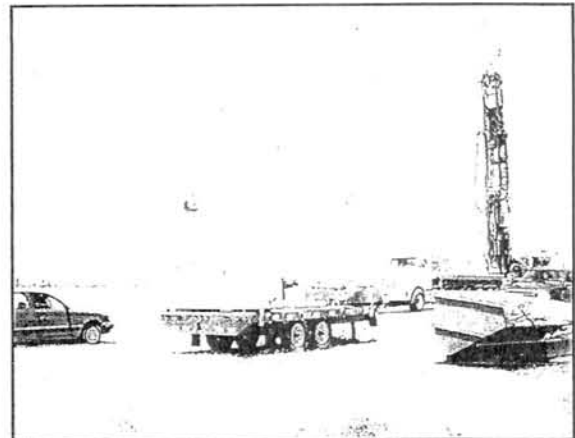
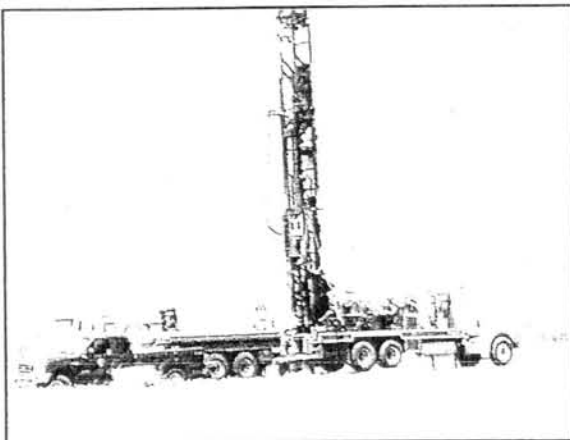
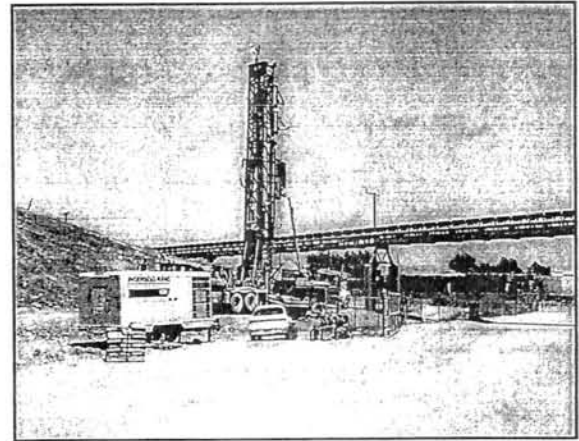
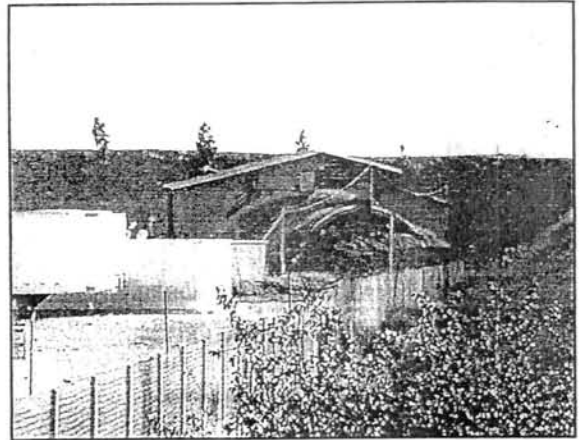
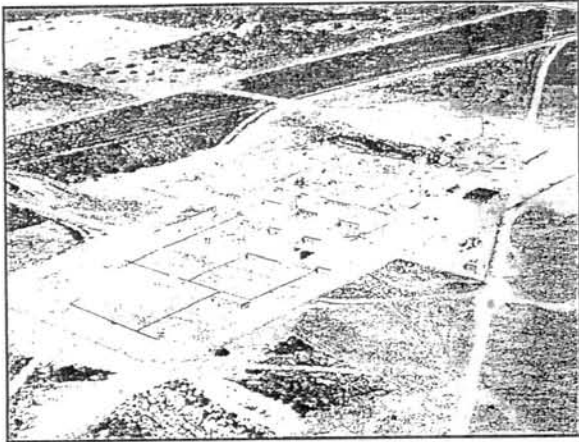
Written comments on agenda items are to be addressed and submitted to Debbie Irvin, Clerk to the Board, either by email at dirvin@waterboards.ca.gov ; fax (916) 341-5620; or mail addressed to State Water Board, P.O. Box 100, Sacramento, California, 95812-0100. Please also indicate in the subject line, "COMMENT LETTER – 11/02/05 BOARD MEETING, and ITEM NUMBER ____". If you have questions about the agenda, contact Debbie Irvin via email or call (916) 341-5600. For a map to our building, see our web site at <http://www.calepa.ca.gov/EPABldg/location.htm>.

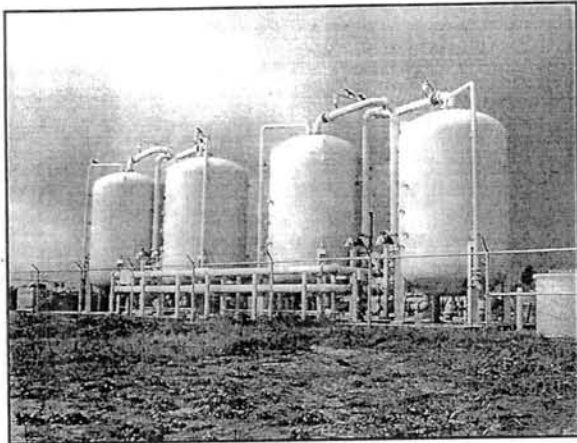
All visitors are required to sign in and receive a badge prior to attending any meeting. Valid picture identification may be required due to the security level so please allow up to 15 minutes for this process. Individuals who require special accommodations are requested to contact Adrian Perez, Office of Employee Assistance, at (916) 341-5880.

It would be helpful if those wishing to present a Microsoft PowerPoint presentation during the meeting would provide either a CD or send an email at least two working days prior to the meeting.

An audio broadcast will be heard via the World Wide Web at <http://www.calepa.ca.gov/Broadcast/>.







Current Enforcement

- Emhart (Black & Decker) Cleanup and Abatement Hearing scheduled for May
 - Discovery
 - Submittal of Evidence
 - Designation of Expert Witnesses
 - Briefing schedules

20



Emhart Enforcement

- Separation of Functions
 - Staff Prosecution Team
 - 3 Deputies Attorney General
 - OCC Deputy Chief Counsel Wyels
 - OCC Senior Staff Counsel Leon
 - EO & AEO
 - Technical Staff
 - Board Advisory Team
 - OCC Deputy Chief Counsel Cobb
 - Regional Board Technical Staff

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Goodrich Enforcement

- Consent order scheduled for Nov 16th in Rialto
 - 5 to 8 wells and sampling
 - Each well = 700 feet deep
 - Westbay multiple port completions
- Approximately \$250,000 per well
- \$100,000/month stipulated penalties for missing schedule ²²



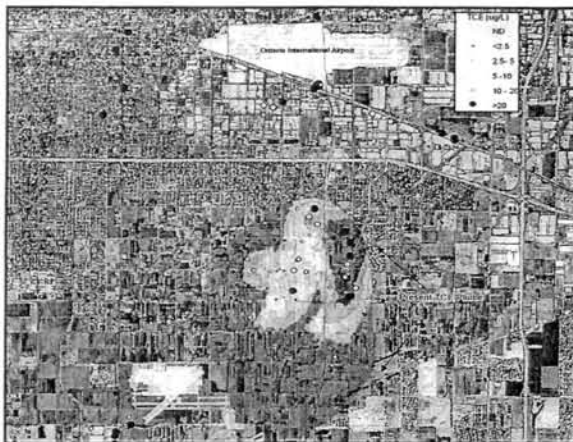
Goodrich Enforcement


- Staff believes this work will generate data necessary for court substantiation of water replacement orders
- Citizens group petitioned for inclusion of water replacement order
- Full intention to issue water replacement order upon completion of science to substantiate requirement

23



Ontario Airport TCE Enforcement

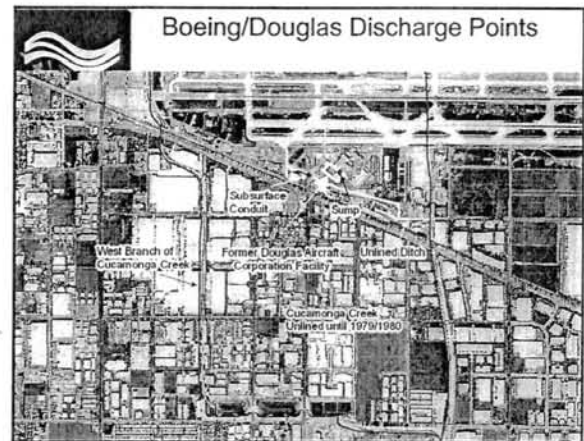
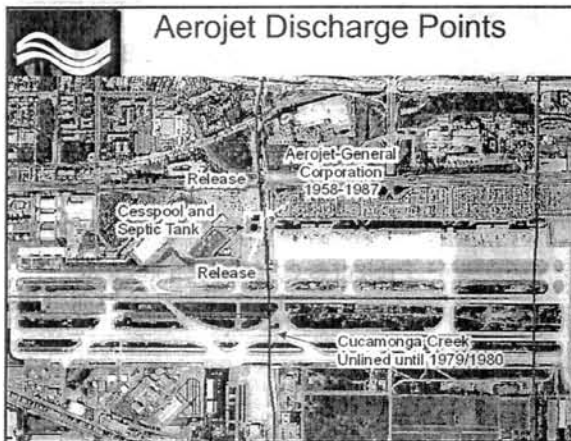


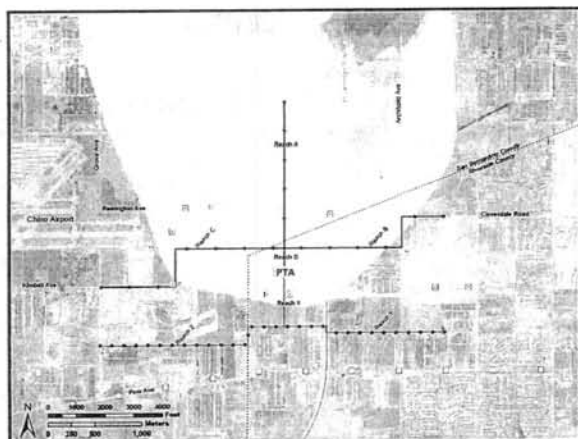
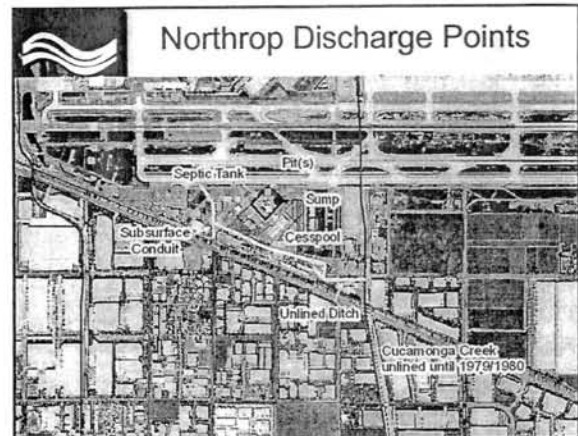
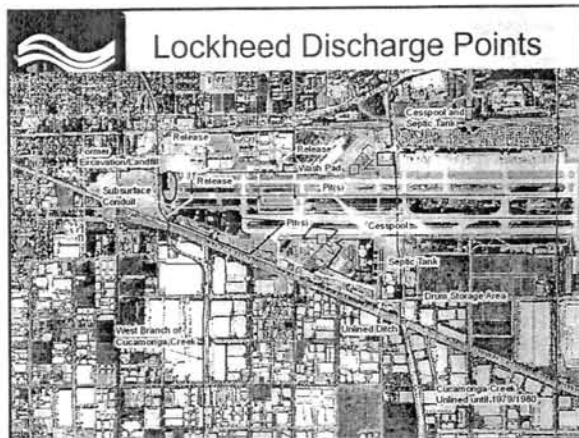


PRPs Identified

- Aerojet
- Boeing/Douglas
- DOD – Air Force, National Guard
- General Electric
- Lockheed
- Northrop

26





Water Boards

Present Value Cost to Clean Up TCE Plume

- Clean up period ~ 50 to 75 years
- Interest rate assumed at 5 percent
- Project is constructed in 2010
- Inflation rate at 3 percent

34

Water Boards

Present Value Cost to Clean up TCE Plume

- Present value in 2010 of clean up is about:
 - \$413 million for 50-year period
 - \$445 million for 75-year period


35

Water Boards

Reconnaissance-Level Cost Estimate

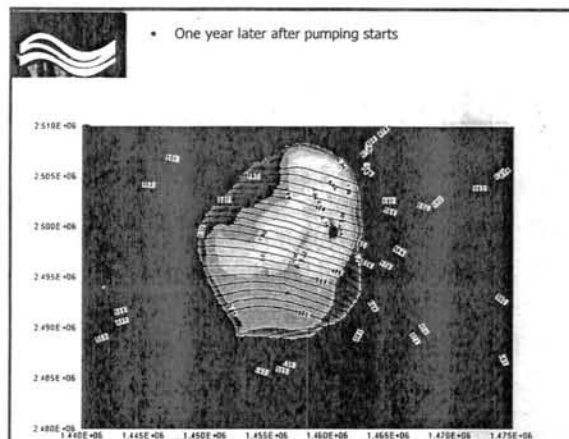
Facility Component	Capital Costs	O & M Costs
Extraction Wells	\$26,703,000	\$2,575,000
Collection Pipelines	\$4,943,000	\$19,000
PTA Facility (per GAC vendor offer)	\$13,962,000	\$2,070,000
Distribution Pipelines	\$5,334,000	\$16,000
Injection Wells	\$50,802,000	\$1,841,000
Subtotal	\$101,744,000	\$6,521,000
Contingency at 20%	\$20,348,800	0
Total	\$122,092,800	\$6,521,000

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Simulation Results for the Detection Limit Cleanup Scenario

37





General Electric Former Flatiron Plant Ontario Enforcement



General Electric

- GE manufactured clothes irons at the site between 1927 and 1982
- Soil and groundwater investigations initiated in 1987, completed in 1993
- Significant concentrations of TCE (up to 4,400 ug/l) and hexavalent chromium (up to 1,600 ug/l) in groundwater

41



General Electric

- Plume is 1.5 miles long and 0.5 miles wide
- Depth to groundwater is about 380 feet beneath site
- Extraction well at toe of the plume (TCE ~ 5 ppb) began operation in 1996

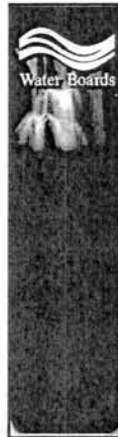
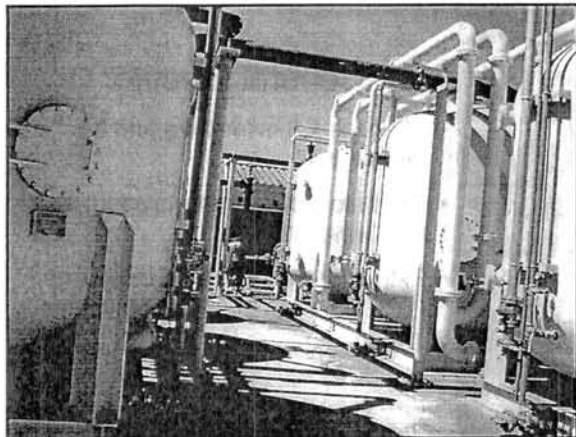
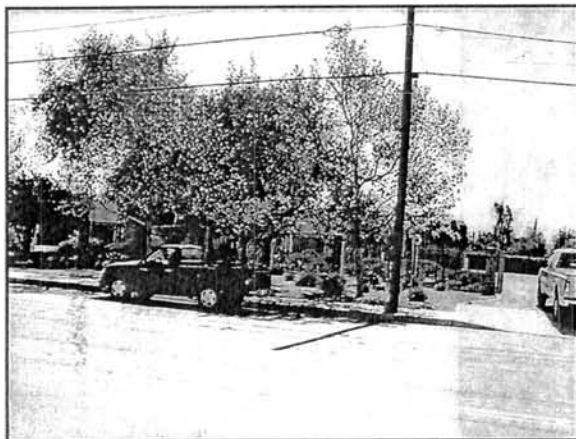
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General Electric

- Since 1996, almost 2 billion gallons of groundwater have been extracted and treated (currently about 2 mgd)

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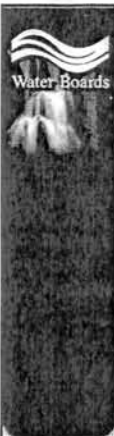


SAWPA TAC

Basin Plan Amendment
Required Monitoring and
Analyses:

Recomputation of Ambient Water Quality
1984-2003

July 15, 2004



Background

- TIN/TDS Study – Phase 2A
 - Updated groundwater basin boundaries: **Management Zones**
 - Calculated ambient water quality
 - 1954-1973 – Historical Period (new objectives)
 - 1978-1997 – Current Period (measurement of compliance)
 - Methods:
 - Five years to develop
 - Highly reviewed process with unanimous consensus

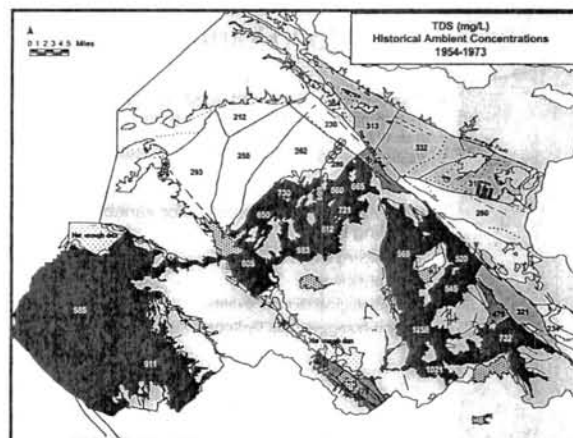
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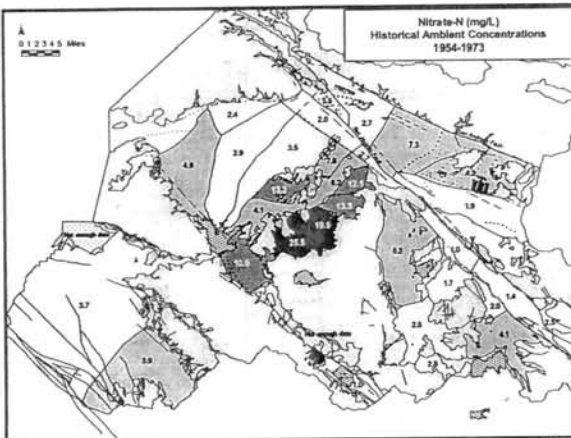


Calculate Ambient Water Quality

- TIN/TDS Study – Phase 2A
 - Develop *volume-weighted* management zone estimates of TDS and nitrate concentrations
 - $Concentration_{MZ} = \frac{Mass_{MZ}}{GW Volume_{MZ}}$
 - 1954-1973 – Historical Period
 - Set new objectives
 - 1978-1997 – Current Period
 - Determination of assimilative capacity
- Re-computation of AWQ
 - 1984-2003
 - Measurement of compliance

53





Data Collection

- Lookup Tables:
 - Stations Table
 - Analyses Table

Data Collected

WELL	DATE	TIME	PARAMETER	QUAL.	REMARKS	UNITS
10	200205	7:25	Ammonia			mg/L
10	200205	16:00	Ammonia			mg/L
10	200205	17:00	Ammonia			mg/L

SAW DMS

WELL	DATE	TIME	PARAMETER	QUAL.	REMARKS	UNITS
10	200205	7:25	Ammonia			mg/L
10	200205	16:00	Ammonia			mg/L
10	200205	17:00	Ammonia			mg/L

SAW DMS

WELL	DATE	TIME	PARAMETER	QUAL.	REMARKS	UNITS
10	200205	7:25	Ammonia			mg/L
10	200205	16:00	Ammonia			mg/L
10	200205	17:00	Ammonia			mg/L

STATIONS TABLE

WELL	DATE	TIME	PARAMETER	QUAL.	REMARKS	UNITS
10	200205	7:25	Ammonia			mg/L
10	200205	16:00	Ammonia			mg/L
10	200205	17:00	Ammonia			mg/L

56

Develop Queries to Extract Data

- Queries:
 - Water level data
 - Water quality data
 - TDS
 - NO₃-N
 - Other inorganic and general physical parameters

57

Develop Queries to Extract Data

- QA/QC Checks
 - Develop TDS and NO₃-N time histories
 - Appropriate statistical tests for normality and outliers
- Shapiro-Wilk test
 - Standard methods tests
 - Anion-cation balance
 - Measured TDS vs. calculated TDS
 - Measured EC and ion sums
 - TDS to EC ratios
 - Reject data if any test failed

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Develop Point Statistics

- Each well must have at least three data points in separate years during the analysis period. If a well has more than one data point in one year, those data are averaged for the year.
- Computed statistics account for variability resulting from:
 - sampling error
 - analytical error
 - hydrological/climatic events
 - non-homogeneous hydrogeological properties


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Estimate Regional Water Quality

- Summary Statement:


Develop water quality contours based on point statistics of TDS and NO₃-N

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Estimate Regional Water Quality


- Procedures:
 - Delineate aquifer geometries
 - Orange County (2 layers)
 - Chino (3 layers)
 - Bunker Hill Pressure (2 layers)
 - Compare well construction to layer geometry
 - Assign each well to particular layer(s)



Estimate Regional Water Quality

- Procedures:
 - Plot point statistics on maps
 - TDS and $\text{NO}_3\text{-N}$
 - Each layer (where applicable) and each major basin
 - Total maps = 22
 - Develop and digitize contours of water quality, accounting for:
 - Management zone boundaries
 - Mean values

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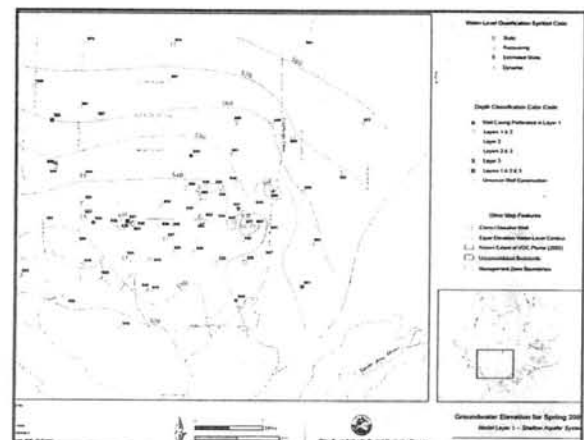



Compute Ambient Water Quality for Management Zones

- Summary Statement:

Generate volume-weighted estimates of ambient water quality (TDS and $\text{NO}_3\text{-N}$) for individual management zones

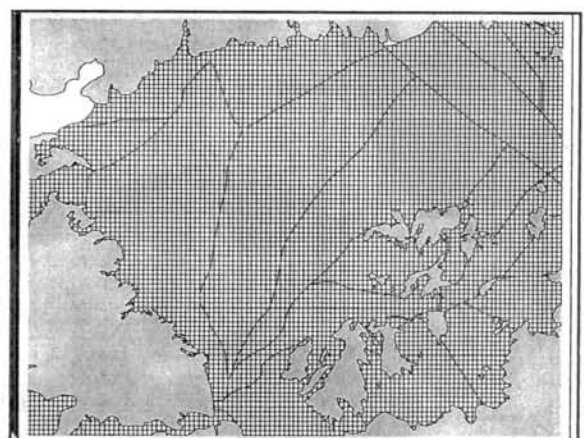
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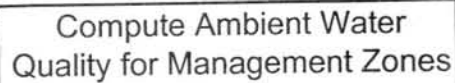



Compute Ambient Water Quality for Management Zones

- Create 3-D grids
 - Water level elevation
 - Water quality (TDS and $\text{NO}_3\text{-N}$)
 - Specific yield and aquifer layers (done)
- Use contours and data points
- Software:
 - Surfer during TIN/TDS Study
 - Geostatistical Analyst (ArcGIS extension)

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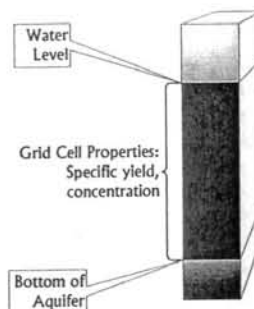


- Compute volume of groundwater in each grid cell – for each layer (if applicable):

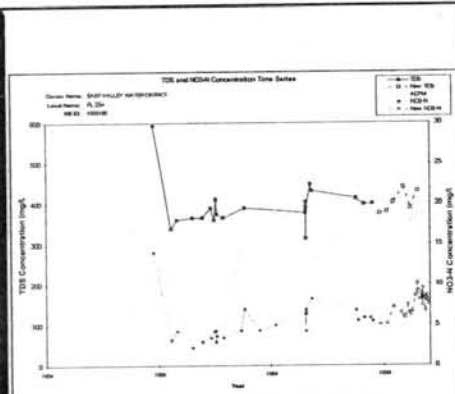
$$V_i = A_i * (WLi - Bi) * SY$$

Where, V_i = volume of groundwater in i th grid cell
 A_i = grid cell area (1600 square meters)
 WL_i = average elevation of groundwater in i th grid cell (feet above MSL)
 B_i = average elevation of the effective base of aquifer in i th grid cell (feet above MSL)
 SY = specific yield (essentially a weighting factor)

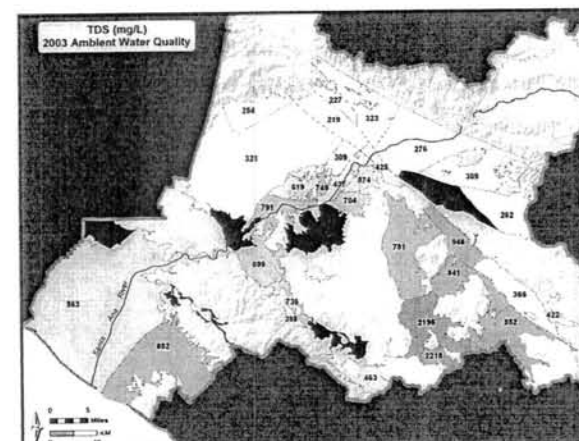
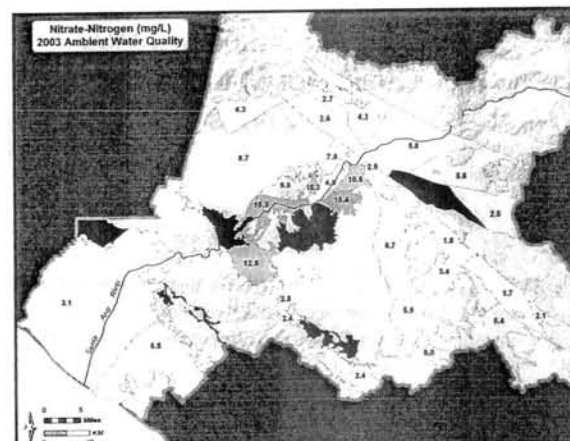
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22



6

[illegible]

Board Members: Tom Doduc, Art Baggett, Pete Silva, Jerry Secundy
Executive Director: Celeste Cantu.

State Water Resources Control Board Meeting, November 2, 2005

Report by Jerry Thibeault, Executive Officer of Santa Ana Region 8

Mr. Thibeault is introduced by Celeste Cantu

Mr. Thibeault: Madame Chair and Members of the Board – Good Morning. Celeste has asked us to tell you a little bit about what is going on in the various regions. First thing I wanted to do was to point out for those who have not been on the Board for a long time Region 8 is the smallest of all the Regional Boards down here. However, we have the second largest population of any of the regions. So we are next to L.A. which is the most populous of the regions and we have the second largest population – very, very diverse set of environmental conditions in the region. This may be a little hard to see here but it shows our region a little bit here (pointing to map on PowerPoint presentation) Newport Beach, Huntington Beach on the coast going inland to (oh yeah, thank you, that would be great Pete) into the Rialto Riverside area, the inland empire, San Bernardino, Yucaipa, going up to Cajon Pass – some of the other photos I am going to show you later are from this area right here in Rialto, This is the 15 freeway going up and the 215 freeway and we have a lot of activity going on in here at the 10 freeway. So I just wanted to be showing you some of these things but we will be focusing on that a lot.

For those who have been on the Board for a while, you are well aware of our perchlorate enforcement case in North Rialto and this Board has been extremely helpful in providing a lot of assistance from the clean-up and abatement account to help provide well head treatment for the folks in Rialto. This whole case started out with the Rialto Ammunition Back-up Storage Point during World War II. The military found a place that was outside of where shelling from off shore ships could reach ammunition storage points and this is in North Rialto. The I-15 freeway is right here – 215 over here and this thing is right in the north part. We have a number of responsible parties for the problem that we have talked about this first enforcement case. Most prominent are Kwikset which has become Emhart which has become Black & Decker and yes it's the same Black & Decker we know and love from Home Depot. And also Goodrich; these are the two main responsible parties. This is what the site looked like in 1955. These buildings over here are where most of the work that was done by West Coast Loading where they loaded shells for use in Korea and other military operations throughout the world. These shells were star burst shells which had a high percentage of perchlorate and this site was later taken over five years later by Goodrich for rocket development. And you see this is way out in the country at that time. I lived a couple of miles from here when this facility was in operation and now it's all surrounded by homes and a large landfill down here on this side but back then, this area was not sewered. Septic tanks, surface impoundments, surface burn pits, lots of opportunities for pollutants to be discharged to the sub-surface.

This is one of the old bunkers from World War II; one of the last remaining bunkers; a lot of munitions were stored there and a lot of materials containing perchlorates. Here is our famous 160 acre site owned by West Coast Loading which became Emhart which became Black & Decker and also Goodrich. We have two plumes that extend like through these two corners right here from the upper left to the north to the lower right in that direction to the southeast actually. One large plume from the 160 acres and then another plume generated recently by Robertson Ready Mix working for the County. There was apparently some perchlorate in the subsurface. They had a very large gravel washing operation here – put a lot of water in the ground and mobilized and generated a whole new plume that is distinct from the plume from 160 acres but moving in the same direction away from the County landfill.

The County has been very cooperative in putting in wells and dealing with this problem. They have moved down several miles from the site. These wells are \$250,000 wells that go down 700 feet. Very difficult to drill. Multiple port completions, a quarter million dollars on each well and this is a well down by the airport – helicopter landing in the background here – these are the two plumes – the County plume shown here and the plume from the 160 acres Goodrich, Kwikset, some fireworks companies, and you can see that they both are moving in the same direction; but they are also moving away from some of the areas that also have perchlorate contamination which we believe comes from agricultural practices; the use of Chilean fertilizer from 1880 through about 1945. So we have a general problem with perchlorates throughout most of the Southern California area from agricultural use of Chilean fertilizer but that is a distinct problem from these two plumes that are the subject of a lot of our fun.

In the case of the County they have been cooperative. They have put in a wellhead treatment system for Rialto well number three as we directed. This is one of the replacement water issues and we have, unfortunately, many of these wellhead treatment systems throughout the area. All over Rialto this is from the Lockheed plume in the Redlands Riverside area and another one – this one was actually funded from money from the clean-up and abatement account. This was in Southern Rialto and also for percholorate treatment.

We have scheduled a clean-up and abatement order hearing for May with Black & Decker. Now you might think well, why don't you schedule a hearing in two weeks, hold that hearing for clean-up and abatement orders; it's a pretty easy thing to do. Well, this is the most difficult enforcement I have seen in 30 years. Black & Decker has an unlimited defense budget and they have been using it and so we are treating this as a court case. We are going through discoveries, submittal of evidence, designation of expert witnesses, briefing schedules and the earliest possible time for us to have the hearing was May. We have also instituted a separation of functions where we have a staff prosecution team. We are using attorney general staff at this stage of the game. This is not in court. This is for a clean-up and abatement order hearing. Three deputies are working with us. Phil Wyels has been really helpful. Jorge Leon has put in an incredible amount of time and our staff has put in thousands of hours in this case. We also have a Board advisory team that is kept separate from us. They are not involved in the prosecution at all. Ted Cobb is

heading up that group along with technical staff from the Board who have not been involved with the perchlorate problem.

Now Goodrich has been a lot more cooperative in this whole thing. We are scheduled to hold a consent order hearing next week in Rialto. They have agreed to put in about 3 million dollars worth of wells for a ten month agreement to not take any further enforcement. This will be five deep wells; each well 700 feet deep – west bay multiple completion wells – a quarter million dollars each one. And also we have thrown in a hundred thousand dollar per month stipulation for missing the agreed upon schedule. This is a serious approach. However, a lot of the folks in Rialto are not very happy with this because it does not require replacement water. The staff position in this is that we don't have the data necessary to substantiate in court the need for replacement water so this work – three million dollars worth of work will help give us the substantiation we need to order replacement water which we expect to have to take place next summer.

We have another new situation just south of the Ontario Airport. This is the Ontario Airport up here where I am sure all of you have landed one time or another – with the 10 freeway right across here. South of the airport this was the dairy preserve. Four hundred thousand dairy animals in this area for the last 50 years and there was very little water production through there. We took some samples and found some TCE a while back. Then the Chino basin water master found a lot of TCE through its sampling program. It turns out we have a very large plume of TCE in the middle of the dairy preserve which does not make any sense until you look at Ontario Airport's two surface waters, Cucamonga Creek and Chino Creek that could have transported this matter down into this area. We have a well known PRP's who spent a lot of time in Ontario Airport. We are working with GE and other clean-ups. Working with Lockheed and other clean-ups. Very cooperative groups. Others have been less cooperative in the past. But we are working with these PRP's to come up with a strategy to deal with this. We have a lot of information on all the discharge points from Boeing, Aerojet, DOD which has not been very cooperative as you know. GE is one of the most cooperative groups around; Lockheed the same. All surface kinds of things; surface sumps, ditches that go right into Cucamonga Creek, the materials, the TCE's, the solvents that are probably carried in the creek where they percolated down within two miles down into the ground water over 50 years. And so now we have the plume that results from that.

We also have 40 million gallons per day of desalting that is taking place at the south end of this plume. The Chino one and the Chino two desalters from the Chino basin or the Inland Empire Utilities Agency and some of the other agencies that are producing about 40 million gallons per day of municipal water, cleaning up water that has been contaminated by 50 years of dairy operations and another 100 years of irrigated agriculture. This plume is headed right for these facilities so the Chino basin water master and the desaltory authority have spent a lot of time working with us to come up with a strategy to clean up this plume and to encourage the PRP's to get on this pretty quickly. The water master has provided consult help to us to come up with clean-up strategies, costs which is like \$445 million over 75 years to deal with this plume – it is a very serious problem. The consultants have designed a clean-up strategy and they have done a

clean-up modeling for us – see these red spots in the middle here; one year after clean-up is instituted five years later a lot of that mass is gone. We have a lot of information to give to the PRP's to help them move along towards coming up with a solution which we think is going to be put in well head treatment on the desalter wells. The plumes there are the least expensive alternative and we think this is going to be something that will be low cost to them, relatively low cost and we are meeting with them next week to kick this off.

We have another enforcement action which is a really good success story. You notice that we are focusing on enforcement, enforcement and enforcement and will do good science next but our third enforcement is that GE, which had a flat iron plant for 55 years at a site in Ontario high concentration of TCE and hexavalent chrome. From discharge from the site they now have a mile and a half plume and again 400 feet of ground water. Very deep, expensive to drill wells, expensive to pump this material up and you know it's a huge plume. But since 1996 they have cleaned up almost 2 billion gallons of water from this plume and they have a long ways to go but this is a pretty good success story with GE. This is the kind of imprint that they have on the community. In the inside of a park they have a couple of wells in a transitional neighborhood from residential to commercial this is the clean-up facility. Very little impact on the community inside and the clean-up tanks for GE.

Now moving into another topic, in 2004 for those members who were on the Board at that time, we brought a basic plan amendment to you for a complete re-write of the Santa Ana Basin plan which included new water quality objectives for every single ground water basin in our region. We brought it to you with no objections from anybody, consent item; it was an amazing situation that comes from the water agencies and the waste water discharges in the region working together to come up with a well thought out and well supported study that allowed objectives to be validated and more importantly gave us up to the minute real time ground water monitoring for the entire region. No one else has got this. We can tell you what our groundwater quality is anywhere in the region at essentially in any one of the aquifers and multiple aquifers locations. We did it for the historical period from 1954 to 73 which is the State policy for setting water quality objectives – it's the quality of water that occurred at that time but that's what the water quality objective should be. Then we did a measurement for the 20 year period ending in 1997. However, as part of the basin plan amendment we also said that were going to redo this every five years. Now from our old basins came information set up in the early 70's which didn't really have a good handle on which way water was flowing in some of the basins; there just wasn't much information but you can see that some of these basins have been completely revised in terms of their orientation alignment and we have the benefit of hundreds of wells being drilled and all that information and so we are able to model the effects of the basin very carefully. One of the things that we brought to you in 2004 were maximum benefit objectives. For instance in the Chino basin, objectives were modified from the 1973 levels to allow for the use of re-cycled water as part of the integrated water supply plan for this entire basin. So the objectives were changed by about 25 milligrams per liter that are allowed the use of re-cycled water in the basin and 50 million dollars worth of recharge facilities which are already done. They built them in response to this integrated water supply plan and the revised objectives. These basins

allow the capture of a huge amount of storm water and for the use of re-cycled water within the basin, a very valuable water supply strategy for the basin. But here is where the good science comes in. We took years to develop the approach on how this was done. Mass historical, we did this thing over 20 years which allowed for the dampening of any hydrologic effects. So if you had a wet year and you did water quality measurements the water does not look artificially good because of the wet year. Or a dry period the same way, so we took those out and we did it for both historical and the current period and that was six years ago; it ended in 1997. And so now we have a brand new measurement of water quality using tens of thousands of data points throughout the region. These are out historic measurements of water quality, calculations of water quality for both salts and for nitrogen. As I said tens of thousands of data points is a huge data base that is managed by SAWPA whom of all you know. This is the Santa Ana Water Shed Data Management System. Many, many look up tables for each data point; all different kinds of information but not only the raw data but a large number of QAQC checks to make sure that all the data that are used in this analysis are valid; its good information. Sometimes you sample and the results you get just don't make sense and we should not be using that information if it gives us bad results. And then any data that don't meet both the statistical analysis and the standard methods analysis is rejected.

We had to have at least three data points from any one well or that well was not used and we took a large number of steps to deal with sampling error, analytical error; the hydrologic effects that we talked about and any hydro-geologic properties that got in the way. And so we developed water quality contours based on good data of TDS and nitrate. And we also took into account the aquifer characteristics. Orange County has two layers; Channel Basin has three different layers; Bunker Hill has two layers; this is the San Bernardino area and each determination of water quality has to account for how much of the concentration of any constituent is in each of the layers and it does vary. The upper layer in the Chino Basin is going to have a lot of effects from irrigated agricultural and dairies and the lower layers won't. But to get the quality in the basin you have to integrate all those layers. And then we have point statistics and just for the six year period we had 22 different digital maps that came from this and for the original work that was done for the basin we had 200 maps that were used. And we generated volume weighed estimates of water quality for all of the water quality zones in the basin. This is just an example of what these digital maps look like. Our entire region is broken up into 400 by 400 foot meter grids. And so each one of these grids is handled separately for the water quality analysis and then each grid is computed separately and this is that what each one of the little 400 by 400 foot grids looks like. So this is the kind of rigorous scientific approach to water quality. We just don't go out and sample three wells in a basin, average the results of those three wells together and then call that the quality of the basin because it is not. This is a much more valid approach. We develop 20 year time series histories for each well and then we have our new water quality data which is different for both salts and for nitrates which is different from the information that was generated six years ago. Now this table is not for you to look at other than to show you at the top that we have the objectives, the historical ambient, the objectives, the ambient from 1997, the ambient from 2003 and how much assimilative capacity is in each basin. And from the famous State Board Rancho Cabero decision the assimilative capacity is an indication of what

kind of discharge limits we can set in waste discharge limits for any given proposed discharge. We did the same for nitrogen and then we have comparison tables from 1997 and 2003 to see what kind of changes we have had in water quality over the six years.

So anyway, those are some of the things we are doing down in Region 8. We have a lot of other stuff going on but I just focused on enforcement and the modeling that is being done for water quality and for this little talk.

Chair Doduc: Thank you very much. Any questions, comments? Jerry, I know you had a lot of questions on the scientific part.

Jerry Secundy: There were one or two equations that may have slipped by me so – Black & Decker. Why such a different approach compared to some of the other dischargers?

Mr. Thibeault: We don't know – it's a huge liability – the cost to clean up that basin I think will be something in the range of many hundred million dollars over 75 to 100 years probably. It's going to be a long, long process. Part of the problem with the Black & Decker situation is that a predecessor company brought West Coast Loading back in 1957 or 8ish – late 50's. It was Kwikset Locks. Kwikset Locks brought this company. Kwikset Locks was then absorbed by American Hardware and Kwikset Locks was dissolved. American Hardware was absorbed by Emhart Industries and then Emhart Industries was absorbed by Black & Decker. Over 55 years. And now Emhart Industries is being dissolved as fast as they can do it back in Connecticut and we are involved with that too. But they don't think that they are responsible even though we have a corporate successionship to tie them into it and they have....well first of all they told us that they weren't responsible for the site although they had all the historical documents ...you know the assumption agreements and the corporate records and everything else but it's just hard to understand why they are taking this approach other than it's a very, very big financial proposition.

Jerry Secundy: It goes back to caveat emptor. So let the buyer beware. I mean being involved with that before with other companies – when you purchase a company that has environmental liability you purchase the environmental liability. So the law is very clear there. So....

Mr. Thibeault: They went through the very same thing for Leviathan Mine with Arco and Anaconda and Arco paid the settlement for

Jerry Secundy: Having been 30 years with Arco I remember it painfully. (laugh) Thank you very much. Excellent presentation.

ATTACHMENT 6



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

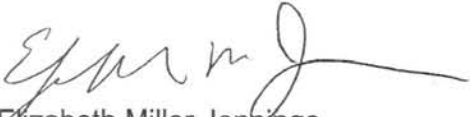
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Arnold Schwarzenegger
Governor

TO: SWRCB/OCC File A-1824


FROM: Elizabeth Miller Jennings
Staff Counsel IV
OFFICE OF CHIEF COUNSEL

DATE: May 11, 2007

SUBJECT: SUMMARY OF CONVERSATIONS BETWEEN MEMBERS OF ADVISORY
TEAM OR CURRENT STATE WATER BOARD MEMBERS AND PERSONS
NOT ON THE ADVISORY TEAM OR BOARD MEMBERS

This memorandum describes all oral communications that interviewees reported during interviews. It does not include confidential communications between and among current State Water Resources Control Board (State Water Board) members and Advisory Team members. It does, however, include any conversations whereby any parties or other persons may have relayed communications through an intermediary, including a prior State Water Board member.

No conversations to report:

Art Baggett
Wennilyn Fua
James Herink
Charlie Hoppin
Jim Maughan
Fran Spivy-Weber
Gary Wolff

Jon Bishop:

1. Oral communication within approximately the last year: At an MCC¹ meeting, Gerard Thibeault mentioned that there was an enforcement order issued at the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) and that he hoped the State Water Board would provide assistance. No memory of what type of enforcement order and what help needed. No memory of any response. No personal communication with Mr. Thibeault. Those present included Executive Officers from various regional water boards and Celeste Cantu, then-Executive Director. (At the time, Mr. Bishop was Executive Officer for the Los Angeles Water Board.)

¹ MCC is the Management Coordinating Committee, which consists of Executive Officers of regional water boards and State Water Board executive managers. MCC meets several times a year.

2. Oral communication within the last year: At an MCC meeting, Mr. Thibeault mentioned that Walt Pettit was going to serve as hearing officer regarding perchlorate contamination in Rialto. Other Executive Officers were present.

Tam Doduc:

1. Oral communication May 19, 2006: At the May 19, 2006 Santa Ana Water Board meeting, Ms. Doduc was present (as a visiting liaison from the State Water Board). An item was on the agenda regarding perchlorate in Rialto. In the hall earlier, some members of an environmental justice group approached her, said they were there for that item, and were happy it was on the agenda. Later, the Board meeting ended because of lack of a quorum, and the item never came up. There were many people in the hallway—she remembers Penny Newman and Sujatha Jahagirdar. She does not remember responding, other than greeting them.
2. Oral communication on February 5, 2007: Ms. Doduc called Carol Beswick (chair of the Santa Ana Water Board) to say that the State Water Board was taking the matter up on its own motion. There was no conversation about the case; limited to a “heads up” that the State Water Board was sending its letter of that date.
3. Attended briefing of Linda Adams (California Environmental Protection Agency (Cal/EPA) Secretary) March 1, 2007, prior to her confirmation. No recall of discussion.
4. Oral communication early March 2007: Conversation with Dorothy Rice, when Dorothy said that Penny Newman called Ms. Rice and told her that the second week of April would be better for the hearing. Ms. Doduc instructed Ms. Rice that this was an improper ex parte communication and ignored the request.

While Ms. Doduc apparently referred to communications from or to a District Attorney at the prehearing conference, she has no memory of such a conversation and states that she likely misspoke.

Tom Howard:

1. Oral communications at MCC meetings over last year: It was likely that Jerry Thibeault mentioned the Rialto perchlorate matter at some of these meetings, mostly in the context of it being time-consuming and taking away from other cases. Also at MCC, there was some discussion about an agreement whereby Goodrich would pay \$4 million, and that Emhart/Black & Decker/Kwikset Locks were not part of the agreement. At MCC, present were Regional Board Executive Officers and State Board management—no Board members. Mr. Howard does not remember responding.
2. Oral communication, no date: James Giannopoulos (Division of Water Quality engineer) may have mentioned Rialto perchlorate during a State Water Board management meeting; Mr. Howard believes there was a powerpoint presentation shown by someone.

3. Oral communications regarding approving Cleanup and Abatement Account money for Rialto, approximately 2002 and May 2006. Mr. Howard likely briefed then-Board members about the propriety of giving money for what is basically a long-term cleanup. Board members and State Board staff members likely were present.
4. Oral communication approximately early 2006: Conversation with Celeste Cantu about Barry Groveman pushing the State Water Board to take action, and something about Senator Nell Soto and her son. Mr. Howard only vaguely remembers speaking to Celeste about requests for the State Water Board to do something.

Elizabeth Jennings:

1. March 1, 2007: Participated in briefing Linda Adams for her confirmation. I described the information that was in the public notice of the pre-hearing conference. I explained that I could not say anything that was not public, that neither Ms. Doduc nor I could be there if there were discussion about the site, and that if she had specific questions about the site, she should talk to Kurt Berchtold (Santa Ana Water Board staff) after Ms. Doduc and I left the room. I described the notice of public hearing that had been issued by the State Board. Maureen Gorsen (Department of Toxic Substances Control (DTSC) Director) started to discuss options for site remediation. I interrupted, saying that the State Water Board would hold a quasi-judicial hearing and we could not discuss possible outcomes at all. Others there were Tam Doduc, Maureen Gorsen, Cal/EPA management staff, and James Giannopoulos.
2. Oral communications: Davin Diaz called in early February 2007 about adding his name to the email list. I told him all communications must be by email and to all parties. Jorge Leon came to my office and asked if we had received the Advocacy Team's submission on March 27, 2007. I told him all communications must be by email and to all parties. Scott Sommers called me on April 16, 2007 and asked about responding to certain letters. I told him I would not respond and that all communications must be by email and to all parties.

Michael Lauffer:

Oral communication (about August 8, 2006): Spoke by telephone to Nettie Sablehouse (Senate Rules Committee staff) to explain that Santa Ana Water Board members should not be asked in confirmation hearings about the Rialto issues. Three members had been ordered to appear at the request of Senator Soto.

Karen O'Haire:

1. Possible oral communication, a few years ago: May have called Santa Ana Water Board and asked for agenda packages and hearing tapes. Would have spoken to support staff only.
2. Oral communication July 14, 2006: Bob Wyatt called and said that petitioners in A-1732 et seq would be responding to July 13, 2006 letter. Reminded him that phone calls would not be allowed.

3. Possible oral communication about November 2006: May have called Kurt Berchtold to ask whether Resolution R8-2006-0079 was a draft or had been issued. Kurt said it was a draft; had not other conversation.
4. Oral communication about mid-February 2007: Davin Diaz called and asked that his name be added to list of persons receiving email correspondence. No further conversation.
5. Oral communication about April 12, 2007: Jorge Leon left a voicemail message asking where boxes from Rialto should go. Karen did not return the call.

Dorothy Rice:

1. Oral communication about early March 2006: Penny Newman called on Ms. Rice's cell phone before Dorothy had begun working for State Water Board but after she had accepted the position. Ms. Newman said she hoped the hearing (on A-1824) would be after the noticed date in March. Dorothy replied that she knew nothing about a hearing and would inquire and get back to her. Ms. Rice reported the call to Ms. Doduc; Ms. Doduc said she should not speak to Ms. Newman or anyone else and explained strict ex parte rules. Ms. Rice did not return the call.
2. Possible oral communications during DTSC management meetings. Ms. Rice only vaguely knew that there was a contamination issue and some DTSC involvement. No specific memory of conversations.

ATTACHMENT 7

From: Craig M. Wilson
To: Alex Mayer
Date: Fri, Jul 26, 2002 3:15 PM
Subject: Fwd: FYI Corr Track Doc #556

Make sure Art sees.

From: Rosi Martinez
To: Craig M. Wilson
Date: Fri, Jul 26, 2002 12:08 PM
Subject: FYI Corr Track Doc #556

The attached letter is was sent from California State Senator, Nell Soto, regarding the requests made by Goodrich corporation and Kwikset Corporation that the SWRCB place a stay on the effects of the SARWQCB Executive Officer's Order No. R8-2002-0051. Please distribute to Board Members if appropriate. Thank you.

Rosi Martinez
SWRCB-Executive Office
1001 I Street, Floor 25
Sacramento, CA 95814
916/341-5625
FAX: 916/341-5621
Email: rmartinez@swrcb.ca.gov

"The energy challenge facing California is real.
Every Californian needs to take immediate action to
reduce energy consumption. For a list of ways to reduce
demand and cut energy costs, see: www.swrcb.ca.gov."

From: Betsy Jennings
To: Jorge Leon
Date: Tue, Sep 17, 2002 9:53 AM
Subject: Perchlorate

From the clips, it looks like maybe Region 8 withdrew with CAO to Kwikset and Goodrich?

CC: Karen O'Haire

From: Jorge Leon
To: Jennings, Betsy
Date: Tue, Sep 17, 2002 10:17 AM
Subject: Re: Perchlorate

After a 10 hour hearing, the Board decided to rescind the CAO issued by the EO to Kwikset and Goodrich. They directed staff to, instead, issue 13267 letters to "all responsible parties." End of this phase. Start of new phase. Karen, you're soooooo lucky.

>>> Betsy Jennings 09/17/02 09:53AM >>>

From the clips, it looks like maybe Region 8 withdrew with CAO to Kwikset and Goodrich?

CC: O'Haire, Karen

From: Betsy Jennings
To: Leon, Jorge
Date: Tue, Sep 17, 2002 10:53 AM
Subject: Re: Perchlorate

Karen: Why don't you ask the petitioners to withdraw their petitions.

>>> Jorge Leon 09/17/02 10:17AM >>>

After a 10 hour hearing, the Board decided to rescind the CAO issued by the EO to Kwikset and Goodrich. They directed staff to, instead, issue 13267 letters to "all responsible parties." End of this phase. Start of new phase. Karen, you're sooooo lucky.

>>> Betsy Jennings 09/17/02 09:53AM >>>

From the clips, it looks like maybe Region 8 withdrew with CAO to Kwikset and Goodrich?

CC: O'Haire, Karen

Betsy Jennings - Re: Region 8 matter

From: Betsy Jennings
To: Leon, Jorge; OCC WQ Attys.EXECPost.EXECDomain@waterboards.ca.gov
Date: 10/6/2005 11:26 AM
Subject: Re: Region 8 matter
CC: Wyels, Philip

I would prefer that neither Karen nor I work on this so that we maintain separation in the event of a petition. If someone else from my unit helps, please let me know.

Betsy

>>> Jorge Leon 10/06/05 11:23 AM >>>

Hi. I'm looking for a volunteer to provide very short term assistance to Ted Cobb in a Region 8 matter. The commitment should not require more than a brief amount of your time next week (week of 10/10).

Background: Reg 8 has issued a CAO in the perchlorate investigation to Emhart and Black & Decker. We are separating functions. Phil and I are working with the staff on the prosecution team. Ted has been working with the Board Chair on the advisory team.

Here's the task: We need someone to review a draft Notice of Hearing and to confer with our Board Chair to make sure it is acceptable. That's it. Once you and the Chair approve the draft Notice, the Reg 8 staff will take care of mailing, etc. and Ted will be back on 10/17 to take over all remaining duties and responsibilities of advising the Chair and the Board.

Please let me know if you're able to help out. Thanks.

NOTE NEW EMAIL: jleon@waterboards.ca.gov

Jorge A. Leon

Senior Staff Counsel

SWRCB - OCC

1001 I St., Sacramento, CA 95814

(916) 341-5180; fax: 341-5199

From: Jorge Leon
To: Karen O'Haire
Date: Thu, Jan 19, 2006 10:07 AM
Subject: public outreach

probably the most significant effort is the public advisory committee that was created in November to permit citizen participation and involvement in the implementation of an agreement that we reached with Goodrich. (You've received two petitions on this, from APE and from Emhart - the latter was dismissed as late). We are now talking about expanding the committee to include Emhart's activities. Let me know what else you need.

Jorge A. Leon
Senior Staff Counsel
SWRCB - OCC
1001 I St., Sacramento, CA 95814
(916) 341-5180; fax: 341-5199
jleon@waterboards.ca.gov

From: Karen O'Haire
To: Leon, Jorge
Date: Thu, Jan 19, 2006 4:09 PM
Subject: Re: public outreach

thanks!

>>> Jorge Leon 1/19/2006 10:07:17 AM >>>

probably the most significant effort is the public advisory committee that was created in November to permit citizen participation and involvement in the implementation of an agreement that we reached with Goodrich. (You've received two petitions on this, from APE and from Emhart - the latter was dismissed as late). We are now talking about expanding the committee to include Emhart's activities. Let me know what else you need.

Jorge A. Leon
Senior Staff Counsel
SWRCB - OCC
1001 I St., Sacramento, CA 95814
(916) 341-5180; fax: 341-5199
jleon@waterboards.ca.gov

From: "Lluch, Marilyn" <MLluch@Calepa.ca.gov>
To: "Deb Bourgeois" <dbourgeois@waterboards.ca.gov>
Date: 8/7/2006 8:59:48 AM
Subject: RE: Perchlorate Briefing for Secretary Adams

Deb,
Thanks for the info. I'll mention it to Linda this morning and get back to you regarding scheduling.

Thanks,
Marilyn

-----Original Message-----

From: Deborah Bourgeois [mailto:DBourgeois@waterboards.ca.gov]
Sent: Monday, August 07, 2006 8:51 AM
To: Lluch, Marilyn
Cc: Joiner, Ellajay
Subject: Perchlorate Briefing for Secretary Adams

Good morning. Linda mentioned wanting a perchlorate briefing to Tam. We will be available whenever it is a convenient time for Linda. Just let us know. Thanks.

Deborah Bourgeois
Assistant to Board Chair
State Water Resources Control Board
(916) 341-5611
dbourgeois@waterboards.ca.gov

CC: "Joiner, Ellajay" <EJoiner@CALEPA.ca.gov>

8/31
No Response
from Agency

Michael Lauffer - Re: Fwd: Senate rules

From: Michael Lauffer
To: Wyels, Philip
Date: 8/8/2006 10:12 AM
Subject: Re: Fwd: Senate rules
CC: Cobb, Ted; Leon, Jorge

A couple things. I spoke with Nettie and made clear to her that this is the middle of a tangled, adversarial proceeding where board member bias and e-mails involving Sen. Soto have already been a point of contention and basis for bias claims. As a result and without discussing any of the particulars of the cases (since I advised her that I would be advising the SWRCB in any adjudication of the matter), I respectfully suggested that these discussions would not be productive and in fact could be counterproductive. She suggested that counsel first try to discuss this with Senator Soto's staff (Roger L?) because only Senator Soto can withdraw the request to SRC to bring the members in.

For purposes of this discussion, I think the attorney has to be Ted Cobb. He's the attorney advising the Santa Ana Board Members in the Rialto matter.

-maml

 Michael A.M. Lauffer, Chief Counsel
 Office of the Chief Counsel
 State Water Resources Control Board
 1001 I Street, 22nd Floor
 Sacramento, CA 95814-2828

Phone: 916.341.5183
 Facsimile: 916.341.5199
 Internet: mlauffer@waterboards.ca.gov

>>> Philip Wyels 8/8/2006 10:03 AM >>>

Michael, I'm available all day, but I would only be able to represent the prosecution's view of things. We should get them in to see staff, unless completely unnecessary.

>>> Jorge Leon 08/08/06 8:41 AM >>>

How'd you like to go with me to the Senate Rules meeting on August 16 at 1:30? Carole, Mary and Debbie are all now being required to appear, at the request of Sen.Nell Soto

Jorge A. Leon
 Senior Staff Counsel
 SWRCB - OCC
 1001 I St., Sacramento, CA 95814
 (916) 341-5180; fax: 341-5199
jleon@waterboards.ca.gov

>>> Gerard Thibeault 8/7/2006 8:14 PM >>>

Jorge...See the attached message from Carole. Looks like something is up with their confirmation and Nell. Have you heard anything about this?

Gerard J. Thibeault, Executive Officer
 Santa Ana Regional Board
 3737 Main Street, Suite 500
 Riverside, CA 92501

Phone: 951-782-3284
Fax: 951-686-8016
gthibeault@waterboards.ca.gov
www.waterboards.ca.gov/santaana

Michael Lauffer - Re: Santa Ana Board Members

From: Michael Lauffer
To: Cobb, Ted; Egel, Rob
Date: 8/9/2006 12:09 PM
Subject: Re: Santa Ana Board Members

Rob,

Ted will have to provide you the information. He is the attorney advising the regional water board members in this proceeding. You also need to be careful not relay or serve as a conduit to anyone in Exec (including State Water Board members) for the information you receive from Ted.

-maml

Michael A.M. Lauffer, Chief Counsel
Office of the Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor
Sacramento, CA 95814-2828

Phone: 916.341.5183
Facsimile: 916.341.5199
Internet: mlauffer@waterboards.ca.gov

>>> Rob Egel 8/9/2006 12:08:17 PM >>>

I did not hear back from Dennis and will harrass him today. My intent is to bring one of you on the phone when I get ahold of him, but just in case no one is available, can one of you send me a brief paragraph on what the issue is that we think that Soto is concerned about. I understand it is perchlorate contamination in Rialto and I understand that the company--Emhardt---is fighting the State and Regional Board's efforts to take action. Can you fill me in on whether there are specific issues that Soto believes we have not addressed or specifi actions we have not take? Can you provide a few more facts as to what is going on with this site. Thanks, Rob

From: Michael Lauffer
To: gthibeault@waterboards.ca.gov, KRogers@waterboards.ca.gov
Date: 8/10/2006 2:24:54 PM
Subject: Re: Request to Participate by Phone for Perchlorate Briefing for Gary Wolff

I just spoke with Celeste. We will make arrangements for staff advising the State Water Board to handle Gary's briefing on perchlorate issues. Short of videotaping the briefing to show that nothing untoward or pertaining to the perchlorate petitions was discussed it is best to have the briefing handled by State Water Board advisory staff.

I recognize the intent of the briefing would only be to discuss the Santa Ana Water Board's approach to perchlorate generally, there have already been too many allegations of inappropriate contacts. Even when the allegations are baseless, it is better to avoid them.

-maml

Michael A.M. Lauffer, Chief Counsel
Office of the Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor
Sacramento, CA 95814-2828

Phone: 916.341.5183
Facsimile: 916.341.5199
Internet: mlauffer@waterboards.ca.gov

>>> Gerard Thibeault 08/10/06 2:13 PM >>>

Hey Kathy....Our contact person for the Gary Wolff briefing will be Ann Sturdivant, and she may be assisted by Kamron Saremi. I would also suggest that you include our staff counsel, Jorge Leon, on the call, because of the issues with all of the ongoing litigation and the request we have in to the state board to hold a hearing on this matter. I will also cc this to the OCC folks who may need to step in and provide direction to us, because of the litigation stuff.

p.s. Be sure to change to cc. contact for my EO from Catherine to Felipa Carrillo.

Gerard J. Thibeault, Executive Officer
Santa Ana Regional Board
3737 Main Street, Suite 500
Riverside, CA 92501
Phone: 951-782-3284
Fax: 951-686-8016
gthibeault@waterboards.ca.gov
www.waterboards.ca.gov/santaana

>>> Kathy Rogers 8/10/2006 1:47 PM >>>

Celeste would like to brief Gary Wolff tomorrow morning at 10 AM re: Perchlorate issues, but you looked busy on your calendar. Can you have one of you staff call in?

Celeste told Gary that perchlorate in your Region is a big one (an understatement) and is the reason the Rules Committee has requested the appearance of the board members from RB 8. He naturally wants to hear more about his topic.

Lisa Douglas, Gary's assistant, is trying to set up this meeting with Gary. Celeste, Tom, and James

Giannopoulos will be sitting in this briefing. Please let me know who from your office will call in. Thanks, Kathy.

CC:

ksaremi.rb8post.region8@waterboards.ca.gov, JLeon.HQpo2.SecDom1@waterboards.ca.gov, asturdivant.rb8post.region8@waterboards.ca.gov, PWyels@waterboards.ca.gov, TCobb@waterboards.ca.gov

From: Karen O'Haire
To: Cobb, Ted
Date: Mon, Dec 4, 2006 10:34 AM
Subject: Fwd: Petition update

FYI. I would like to discuss this please. Thanks Karen

>>> Betsy Jennings 12/1/2006 1:02 PM >>>
Surfrider (A-1772 & A-1773): Response and record due 12/20

Emhart and Goodrich (A-1797 & A-1797a): I think we agreed you would be doing a dismissal. It may be okay to combine stay and merits, but do you know when the hearing was supposed to be? If that is not a problem, I want a dismissal memo by the end of the month. If it is only the stay at first, that's OK.

From: Erik Spiess
To: Jorge Leon; Ted Cobb
Date: 1/22/2007 2:10:43 PM
Subject: Imminent Perchlorate Lawsuit by Goodrich

Pete Duchesneau called me to inquire about how to arrange for service of a lawsuit he's planning to file on behalf of Goodrich. At this point, he's going to name only the Regional Board, Jerry, and Walt as respondents. He's "planning" to file in Riverside Superior Court. And he was evasive when I asked whether he will be seeking extraordinary relief, which presumably means he is.

I told him that I am representing only Walt and that he could send me a copy of the petition/complaint with a notice and acknowledgement that I would pass on to the appropriate DAG for acceptance of service on behalf of Walt. As for the other potential respondents, I told him that for the Regional Board, he should contact Ted, and for Jerry, he should contact Jorge to make arrangements for service and I gave him phone numbers for each.

Let me know if questions.

CC: Betsy Jennings; Gerard Thibeault; Philip Wyels; Walt Pettit

From: Erik Spiess
To: Jorge Leon; Ted Cobb
Date: 1/22/2007 4:27:51 PM
Subject: Imminent Perchlorate Lawsuit by Goodrich - part 2

I talked to Rich Magasin and AGO coordination should go through him for now (213-647-2609) until he figures out which DAG(s) to assign to our clients. Accordingly, he requests that we all immediately notify him of any advance notifications we receive from Goodrich about a TRO hearing. Meantime, I've promised to get preliminary materials about the matter to Rich today.

CC: Betsy Jennings; Gerard Thibeault; Philip Wyels; Walt Pettit



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board Santa Ana Region

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221
www.waterboards.ca.gov/santaana



Arnold Schwarzenegger
Governor

January 31, 2007

EMAIL AND U.S. MAIL

Mr. Tom Howard
Acting Executive Director
State Water Resources Control Board
1001 I Street, 22nd Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100
thoward@waterboards.ca.gov

Santa Ana Regional Water Quality
Control Board
c/o Ms. Carole Beswick, Chair
3737 Main Street, Suite 500
Riverside, CA 92501-3348
chbeswick@earthlink.net

Dear Mr. Howard and Members of the Santa Ana Regional Water Quality Control Board:

RIALTO-AREA PERCHLORATE CONTAMINATION; RESIGNATION AND TERMINATION OF PROCEEDINGS

I have carefully reviewed the January 30, 2007 letter from Acting Executive Director Howard to Messrs. Duchesneau, Wyatt and Meeder rejecting the petitions by Goodrich Corporation and Emhart Industries, Inc., et al., of the Santa Ana Regional Water Quality Control Board Resolution (No. R8-2006-0079) appointing me as Deputy Executive Officer/Hearing Officer in this matter. The letter opines that the Resolution "appears inappropriately broad," and recommends that my duties be restricted to holding a hearing and making a recommendation to the Regional Board for final action.

The recommendations in the letter would presumably result in substantial changes to Resolution No. R8-2006-0079, which defines the assignment I agreed to undertake. The disagreement between the State Board staff and the Regional Board is not likely to be clearly resolved soon, and a useful result is unlikely absent resolution. I am unwilling to proceed in accordance with the recommendations in the January 30 letter and to contend with any further resulting delay of the proceedings I have set in motion.

Therefore, please be advised that I hereby resign as Deputy Executive Officer/Hearing Officer and rescind all orders and determinations I have made to date in this case.

Walter Pettit
Hearing Officer

cc: See next page

California Environmental Protection Agency



Recycled Paper

Mr. Tom Howard
Santa Ana Regional Board Members

- 2 -

January 31, 2007

cc: [via email only]

Mr. Gerard Thibeault, Executive Officer
Santa Ana Regional Water Quality
Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3339

Jorge Leon, Esq.
Office of Enforcement
State Water Resources Control Board
1001 I Street, 16th Floor
P.O. Box 100
Sacramento, CA 95812-0100

Theodore A. Cobb, Esq.
Erik Spiess, Esq.
Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 16th Floor
P.O. Box 100
Sacramento, CA 95812-0100

Perchlorate Email Subscription List

California Environmental Protection Agency



Recycled Paper

From: Tom Howard
To: Thibeault, Gerard
Date: 1/31/2007 6:43:41 PM
Subject: Fwd: Region 8 perchlorate hearing

bad news.

Betsy Jennings - ccaej RIALTO-AREA PERCHLORATE CONTAMINATION

From: "Davin Diaz" <davin.d@ccaej.org>
To: <THoward@waterboards.ca.gov>
Date: 2/13/2007 5:07 PM
Subject: ccaej RIALTO-AREA PERCHLORATE CONTAMINATION
CC: <BJennings@waterboards.ca.gov>

Mr. Howard, please consider the attached letter in all matters regarding the Rialto Area Perchlorate Contamination Cleanup.
Thank you.

Davin Diaz
Director
San Bernardino Office

Center for Community Action
and Environmental Justice
255 North "D" Street, Suite 402
San Bernardino, CA 92401
p. 909-381-8883
f. 909-381-8893
davin.d@ccaej.org
www.ccaej.org

Betsy Jennings - rialto playhouse and county building

From: "Davin Diaz" <davin.d@ccaej.org>
To: <BJennings@waterboards.ca.gov>
Date: 2/13/2007 5:18 PM
Subject: rialto playhouse and county building

If you are interested have the hearing in the Rialto Playhouse you should try Bob Owen, Rialto City Attorney: (909) 890-9027. The people at the playhouse told me that to reserve the theatre you should go thru Rialto Parks and Recreation at (909) 820-2612, but Bob would be able to expedite it quicker.

San Bernardino County's Building in Rialto is also good. Bob Paige in the Supervisor Gonzalez's office is the one you should talk to. You can reach him at (909) 387-4565

Davin Diaz
Director
San Bernardino Office

Center for Community Action
and Environmental Justice
255 North "D" Street, Suite 402
San Bernardino, CA 92401
p. 909-381-8883
f. 909-381-8893
davin.d@ccaej.org
www.ccaej.org

Betsy Jennings - Re: ccaej RIALTO-AREA PERCHLORATE CONTAMINATION

From: Betsy Jennings
To: Diaz, Davin
Date: 2/14/2007 9:25 AM
Subject: Re: ccaej RIALTO-AREA PERCHLORATE CONTAMINATION
CC: Perchlorate

Mr. Diaz:

I received the attached letter from you. Please note that if your group wishes to participate as a party, you should participate in the pre-hearing conference that was noticed yesterday. (The notice is attached also to this email.) In addition, it is imperative that any emails you send **you must send to the entire email list** to which this email is copied. Finally, any letter mailed hard copy should be copied to the Regional Water Board and to the Potentially Responsible Parties, pursuant to our regulations. If you would like to be included in the list who will receive emailed correspondence, please let me know.

Elizabeth (Betsy) Miller Jennings
 Staff Counsel IV
 State Water Resources Control Board
 1001 I Street, 22nd floor
 Sacramento, CA 95814
 phone: 916-341-5175
 fax: 916-341-5199
 cell: 916-799-5417
 email: bjennings@waterboards.ca.gov

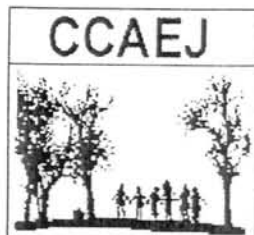
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>>> "Davin Diaz" <davin.d@ccaej.org> 2/13/2007 5:05:35 PM >>>

Mr. Howard, please consider the attached letter in all matters regarding the Rialto Area Perchlorate Contamination Cleanup.
 Thank you.

Davin Diaz
 Director
 San Bernardino Office

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 and Environmental Justice
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Center for Community Action and Environmental Justice

Centro de Acción Comunitaria y Justicia Ambiental

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255 North D Street, Suite 402
San Bernardino, CA 92401
(909) 381-8883

February 13, 2007

Mr. Tom Howard
Acting Executive Director
State Water Resources Control Board
1001 I Street
PO BOX 100
Sacramento, CA 95814

RE: RIALTO-AREA PERCHLORATE CONTAMINATION: OWN MOTION REVIEW
SWRCB/OCC FILE A-1824

Dear Mr. Howard:

The Center for Community Action and Environmental Justice (CCAIEJ) respectfully requests that any hearing regarding the Rialto-Area Perchlorate Contamination take place in Rialto City. The residents of the Rialto-Area have waited ten long years to see a decision made on this issue, and therefore have a right to participate in any meetings and hearings deciding how to proceed with perchlorate cleanup in their community. CCAIEJ completely understands the gravity of the situation, but fears that the State Water Resource Control Board (State Board) might rush to make a decision and set a hearing date in March. To allow for a proper assessment of the situation to ensure that no more delays occur, CCAIEJ would feel comfortable with a hearing date set for April 20, 2007.

In addition to the hearing location to be set in Rialto City, we request that the State Board issue a final cleanup and abatement order based on the Santa Ana Regional Water Quality Control Board's (SARWQCB) Draft Amended Cleanup and Abatement Order No. R8-2005-0053 for Goodrich Corporation, Pyro Spectaculars, Inc., and Kwikset Locks, Inc., Emhart Industries, Inc., Kwikset Corporation, and Black & Decker Inc.; 160-Acre Property Located in the City of Rialto, San Bernardino County, 10/27/06, (CAO), with the following additions:

1. That the CAO be amended to require that polluters reimburse the residents of Rialto directly for costs incurred to date through "perchlorate surcharges" and/or rate increases;
2. The CAO be amended to include mandatory penalties of \$10,000 per day for polluters failing to meet the cleanup deadlines and requirements set in the CAO;
3. The CAO be amended to require polluters to use the best available technology to remove **ALL** perchlorate from the groundwater.

Furthermore, CCAIEJ and Environmental California (Community Group) respectfully request joint Designated Party status in any meetings and hearings regarding how to proceed with cleanup of Rialto Perchlorate Contamination.

The Community Group submits this request for three reasons:

1. The residents of Rialto and Colton are the damaged party—they are the individuals who have had to drink perchlorate contaminated water. More than any other party, they have the right to participate in any procedure that would decide the fate of cleanup of the perchlorate and TCE contamination in their community. The Community Group will represent the interests of the community more effectively than any of the parties that might be granted designated party status.
2. The Community Group will focus comments to proposed remediation requirements contained in a Cleanup and Abatement order. The Community Group played a significant role in shaping the CAO and therefore requests an official role in shaping any order that the State Board may issue.
3. Unlike other parties who have financial and administrative interests, the Community Group's interest is simply to protect the health of residents; as such, they are best suited to advocate for policies and procedures free of the strings of moderation.

THE RIALTO AND COLTON RESIDENTS MUST HAVE A SEAT AT THAT TABLE

The Rialto/Colton communities' interest is to protect the health of their families. Their voice must be heard in any procedure dealing with Rialto perchlorate contamination. As Jess Vasquez, resident of Colton states, "Perchlorate is a great threat to our children, born and unborn, and our government sits on their hands and does not take action to remove the menace. The sources of the contamination are well known and producers have been identified. Why are we waiting to act? Our most cherished assets, our children, are threatened with this poison in our water."

The Community Group has members from within these communities and has worked and spoken with hundreds of Rialto/Colton residents. They all agree that the Community Group can represent their interests with more accuracy than any other possible Designated Party. Listed below are statements made by Rialto/Colton residents in support of the Community Groups' request to become a Designated Party.

Marene Deischer (Rialto):

I am...being charged a [perchlorate] surcharge to have drinking water. This is on top of the regular bill for usage...I believe that the [Rialto] City has had long enough to make decisions on how to clean up the water. I also believe the CCAEJ would do a better job of making these decisions and move faster. We need to be a Designated Party.

Janet Ortiz (Rialto):

I've been a Rialto resident for 21 years. I strongly oppose the City and/or Water Board's ability to represent my best interests...The City and Water Board do not have my best interest at hand. It is my opinion...that CCAEJ represent me and the community of Rialto simply because they continue doing an extraordinary job at keeping the residents and community of Rialto abreast of our drinking water issues and the actions of the Water Board...we need CCAEJ to be our voice.

Victoria Misquez (Senior at Rialto High School):

I have lived in the area since I was a little girl, it is my home...CCA EJ is trying to protect us and our homes. I strongly believe that it is in our best interest to allow CCA EJ to speak up for us. This wonderful organization is not in it to make a profit; they are doing this because they have big hearts and truly care about our rights as human beings. I am scared to think that I have been here for years and I could potentially have some type of health problem.

Celia Zelaya (Rialto):

Prior to CCA EJ's involvement, Rialto City never explained to us how big the problem really is, in fact I didn't know the water had even been contaminated because they never provided any information in Spanish. CCA EJ has involved the community in every step they have taken by providing information in English and Spanish. CCA EJ has brought the community together and should be a Designated Party.

THE COMMUNITY GROUP HAS DRIVEN THE CLEANUP PROCESS

The Community Group has insisted and continues to insist that any agreement and/or order between the SARWQCB and any discharger must contain several key **PRINCIPLES**:

1. Cleanup and abatement orders must hold discharger jointly and severally liable;
2. Drinking Water shall be treated using the best available technology to below detectable levels;
3. Immediate interim measures to stop the further spread of the perchlorate plume;
4. Replacement water be available for all perchlorate contaminated wells until cleanup is complete;
5. That the provision of water replacement for contaminated wells should include wells with any level of perchlorate
6. Implementation of a long-term cleanup plan for the region financed by responsible dischargers;
7. Reimbursement for impacted residents, water utilities, and state agencies for costs incurred to date;
8. Outline specific milestones, timelines and deadlines for each interim and long-term remediation measure. At a minimum, orders should establish a deadline for the implementation of interim measures to stop the spread of the plume, provision of replacement water; reimbursement to community members for costs incurred and formulation of a long-term cleanup plan for the basin;
9. Mandatory \$10,000/day penalties for dischargers failing to comply with any order and/or agreement.

These principles have been presented to the Water Board in numerous shapes (public comments, petitions, Community Cleanup Plans, and proposed policies) and at various times in the past two years. Although considerable progress has been made, the advocacy of these principles had been met with resistance by SARWQCB and staff, and to a small degree the four impacted water providers.

For example, on November 16, 2005, the Community Group requested that the Remedial Investigation Order by Consent No. R8-2005-0121 For Goodrich Corporation (Consent Order) must contain the **PRINCIPLES** listed above. Instead, the SARWQCB, with support from Rialto and Colton Cities, adopted the Consent Order, as recommended by board staff, which exempted Goodrich from any cleanup and abatement orders on the grounds that they would do a groundwater investigation in the Rialto Area for ten months. This delayed the clean up effort by another year.

On April 18, 2006, the Community Group presented the Water Board with the "Community Cleanup Plan" that contained elements to implement all the **PRINCIPLES** outlined above.¹ The "Community Cleanup Plan" was not adopted by the water board, nor a policy based on it.

Although the "Community Cleanup Plan" was not adopted, the efforts made by the Community Groups have shaped the CAO. For example, the CAO holds Goodrich Corporation, Pyro Spectaculars, Inc., Kwikset Locks, Inc., Emhart Industries, Inc., Kwikset Corporation and Black & Decker Inc., jointly and severally liable for the perchlorate and TCE cleanup and abatement. The CAO also reflects many of the following **PRINCIPLES**:

1. By March __, 2007, submit a proposed water replacement plan, including a time schedule for implementation, for the provision of, or payment for, uninterrupted replacement water service, which may include wellhead treatment, to the West Valley Water District and the City of Rialto...
2. By March __, 2007, submit a water replacement contingency plan. The water replacement contingency plan shall address the eleven municipal water supply wells cited in Finding 56 that contain perchlorate in concentrations that do not currently exceed the public health goal of 6 µg/l, and WVWD No. 33, cited in Finding 60, that does not currently contain perchlorate...
9. After the Executive Officer determines that the lateral and vertical extent of perchlorate and TCE down gradient of the Property that is discharging, has been discharged, or threatens to be discharged by the Dischargers has been sufficiently defined, submit a feasibility study that evaluates effective long term remedial alternatives, and includes a recommended long term remedial alternative. In accordance with State Water Resources Control Board Resolution No. 92-49, the recommended long term remedial alternative shall clean up and abate the effects of discharges in a manner that promotes attainment of either background water quality...
10. Within 90 days of the Executive Officer's approval of the feasibility study, submit a remedial action plan, including an implementation schedule, to cleanup or abate the effects of the perchlorate and TCE that is discharging, has been discharged, or threatens to be discharged, by the Dischargers. The remedial action plan and schedule shall be subject to the approval of the Executive Officer. The Dischargers shall implement the remedial action plan as approved by the Executive Officer.
13. Within 30 days after notification by the Executive Officer that the West Valley Water District, the City of Rialto, the City of Colton or the State Water Resources Control Board have provided past costs incurred in cleaning up the waste, abating the effects of the waste, supervising cleanup or abatement activities, or taking other remedial actions, the Dischargers shall submit a Reimbursement Plan for Past Costs for that agency, for the approval of the Executive Officer. The Reimbursement Plan for Past Costs shall include a schedule for providing complete cost reimbursement for past costs for that agency within 90 days from the Executive Officer's approval of the Reimbursement Plan for Past Costs.
- By February __, 2007, the Dischargers shall submit a Reimbursement Plan for Ongoing Costs for the approval of the Executive Officer. The Reimbursement Plan for Ongoing Costs shall include a plan and schedule for providing ongoing cost reimbursement to the West Valley Water District and the Cities of Rialto and Colton for costs incurred in cleaning up the waste, abating the effects of the waste, supervising cleanup or abatement activities, or taking other remedial actions. The Reimbursement Plan for Ongoing Costs shall be implemented following the approval of the Executive Officer.

It is evident that the Community Group has played, and continues to play, an active role in shaping the CAO and will make arguments in favor of remediation elements as outlined in our **PRINCIPLES**.

CONCLUSION

The Community Group strongly believes that the community most directly affected by perchlorate contamination has a right to participate in the decision-making process concerning the area's remediation.

¹ In drafting the "Community Cleanup Plan," CCAEJ and EC consulted Rialto City, the Water Board, and an "outside" hydrogeologist.

The community's interest in the cleanup and abatement of perchlorate and TCE in the Rialto area is unique. Their interest in the cleanup is not administrative, nor is it purely financial. The residents of Rialto/Colton are not concerned with water rights and the disputes that can originate over them. The residents primarily use water for drinking, therefore their interest is not complicated by weighing the different uses of water such as irrigation and recreation in the decision making process. Simply put, the Rialto/Colton community's interest is protect the health of their families and their voice must be heard in any procedure that decides the fate of cleanup in the Rialto/Colton Area.

The Community Group has most affectively represented the Rialto/Colton residents' interest and request to continue do so as a Designated Party in any proceeding concerning the Rialto-Area Perchlorate Contamination cleanup. The Community Group also requests that the hearing be set for April 20, 2007—to provide for adequate time for the State Water Resource Control Board to get the proper procedure established to prevent any future delays, **and that the hearing must take place in Rialto.**

If you have any questions or comments, please do not hesitate to contact me at 909-381-8883.

Sincerely,



Davin Diaz
PASE Director

cc: Betsy Jennings
Office of Chief Counsel
State Water Resources Control Board
1001 I Street
PO BOX 100
Sacramento, CA 95814

Betsy Jennings - RE: ccaej RIALTO-AREA PERCHLORATE CONTAMINATION

From: "Davin Diaz" <davin.d@ccaej.org>
To: "Betsy Jennings" <BJennings@waterboards.ca.gov>
Date: 2/14/2007 9:57 AM
Subject: RE: ccaej RIALTO-AREA PERCHLORATE CONTAMINATION

Thanks Betsy, I believe that as I sent my letter over the net was roughly the same time the State Board sent out theirs, and at that time there was no pre-hearing conference. The reason I sent that letter yesterday was that under Pettit he did not hold a pre hearing conference before establishing designated parties. I will defiantly participate in the pre hearing conference

Davin Diaz
 Director
 San Bernardino Office

Center for Community Action
 and Environmental Justice
 255 North "D" Street, Suite 402
 San Bernardino, CA 92401
 p. 909-381-8883
 f. 909-381-8893
 davin.d@ccaej.org
 www.ccaej.org

From: Betsy Jennings [mailto:BJennings@waterboards.ca.gov]
Sent: Wednesday, February 14, 2007 9:26 AM
To: davin.d@ccaej.org
Cc: jmeeder@allenmatkins.com; rwyatt@allenmatkins.com; bgroveman@earthlink.net; bruce.amig@goodrich.com; pduchesneau@manatt.com; CCarrigan@mmlaw.com; R.Hiete@mpglaw.com; s.elie@mpglaw.com; w.carter@mpglaw.com; julie.macedo@pillsburylaw.com; scott.sommer@pillsburylaw.com; bzagon@reslawgrp.com; phunsucker@reslawgrp.com; emroz@resolutionlawgroup.com; refkin@thegallaghergroup.com; tbloomfield@thegallaghergroup.com; Ann Sturdivant; Debi Ney; Erik Spiess; Gerard Thibeault; Jorge Leon; Kurt Berchtold; Robert Holub
Subject: Re: ccaej RIALTO-AREA PERCHLORATE CONTAMINATION

Mr. Diaz:

I received the attached letter from you. Please note that if your group wishes to participate as a party, you should participate in the pre-hearing conference that was noticed yesterday. (The notice is attached also to this email.) In addition, it is imperative that any emails you send **you must send to the entire email list** to which this email is copied. Finally, any letter mailed hard copy should be copied to the Regional Water Board and to the Potentially Responsible Parties, pursuant to our regulations. If you would like to be included in the list who will receive emailed correspondence, please let me know.

Elizabeth (Betsy) Miller Jennings
 Staff Counsel IV
 State Water Resources Control Board
 1001 I Street, 22nd floor
 Sacramento, CA 95814
 phone: 916-341-5175
 fax: 916-341-5199
 cell: 916-799-5417
 email: bjennings@waterboards.ca.gov

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>>> "Davin Diaz" <davin.d@ccaej.org> 2/13/2007 5:05:35 PM >>>
Mr. Howard, please consider the attached letter in all matters regarding the Rialto Area Perchlorate Contamination Cleanup.
Thank you.

Davin Diaz
Director
San Bernardino Office

Center for Community Action
and Environmental Justice
255 North "D" Street, Suite 402
San Bernardino, CA 92401
p. 909-381-8883
f. 909-381-8893
davin.d@ccaej.org
www.ccaej.org

From: Tam M. Doduc
To: Michael Lauffer, Betsy Jennings, Karen O'Haire
Date: 2/8/2007 10:28:07 PM
Subject: Fw: Fwd: CT5246 Assignment - Perchlorate contamination /Inland Empire / SARWQCB

This was sent to me. I have not opened the attachment and did not previously see the letter.

Tam M. Doduc
State Water Resources Control Board
(916) 341-5611

From: Rob Egel
To: TDoduc@waterboards.ca.gov
Date: 2/8/2007 9:37:15 PM
Subject: Fwd: CT5246 Assignment - Perchlorate contamination /Inland Empire / SARWQCB

Tam, as a follow up to the Governor's Office request for information re: Assembly Member Negrette McCloud and San Gabriel, we apparently received the attached fax yesterday afternoon from Assembly Member Negrette McCloud urging the State Board to get involved with the Rialto Colton perchlorate contamination. Although the letter doesn't refer to San Gabriel, this may be the same issue as the Governor's Office was looking for. I apologize that I didn't catch it until today when we assigned it for a response. Rob

CC: THoward@waterboards.ca.gov

From: Erin Saenz
To: Arestad, Millie; Giannopoulos, James
Date: 2/8/2007 6:34:23 PM
Subject: CT5246 Assignment - Perchlorate contamination /Inland Empire / SARWQCB

Please provide a draft response to the attached letter to OLA 2/19/07. Thank you, Erin

Orig. date: 02/07/2007

Received: 02/07/2007

From: The Honorable Negrete McLeod and
The Honorable Carter, Assemblymembers,
California State Assembly, 32nd and 62nd Districts
State Capitol, Sacramento, CA 95814

Ref: Folder 5246
Due: 02/19/2007
Status: PENDING
Title: FAX
Subject: Perchlorate Contamination of Inland Empires water.

Final Disposition:
OLA to DWQ/Groundwater division for response.

Erin Saenz
Legislative Affairs 24th Floor
Phone: (916) 341-5251
E-mail: esaenz@waterboards.ca.gov
Water Resources Control Board

CC: Calliga, Loti; Egel, Rob



**Senator
Gloria Negrete McLeod**
32nd Senate District

FACSIMILE TRANSMISSION

Date: 2-7-07

Pages to follow including cover: 2

To: CHAIR TAM DUONG

Fax Number: 341-5252

From:

☐ **Senator Gloria Negrete McLeod**

☐ Terra Grantham

☐ Brent Aboudara

☐ Andrew Langley

☐ Don Wilcox

☐ Lucia Valencia

Regarding: Permethrin Contamination

Notes:

State Capitol, Sacramento, CA 95814
Phone: (916) 651-4032 Fax: (916) 445-0128

STATE CAPITOL
SACRAMENTO, CA 95814
(916) 651-4032

California State Senate

SENATOR
GLORIA NEGRETE MCLEOD
THIRTY-SECOND SENATE DISTRICT



Ms. Tam Dudoc
Chair, State Water Resources Board
1001 I Street
Sacramento, CA 95814

February 7, 2007

Dear Chair Dudoc,

We are writing with great concern about the ongoing perchlorate contamination of the Inland Empire's water supply. There have been on going discussions between the Santa Ana Regional Water Quality Control Board (SARWQCB), the members of the community and the polluters that had been overseen by the board's representative, a Hearing Officer, Walter Pettit. With Mr. Pettit's resignation, it is increasingly important for the State Water Control Board to get involved.

Perchlorate contamination is a matter of public health and safety. This protracted process has taken far too long while citizens of Rialto and Colton continue to suffer each day with contaminated perchlorate and the inaction of SARWQCB. The time has come for the State Water Control Board to step in, fulfill its mission and take firm action against the polluters to protect and ensure the health of these Californians. We strongly urge you to give this issue the attention it deserves and assign the appropriate fulltime staff to work with the polluters and our affected communities to reach a solution.

Thank you for your attention to this important matter. If there are any questions or concerns, please feel free to contact us at our offices.

Respectfully,

Gloria Negrete McLeod

Gloria Negrete McLeod
32nd Senate District
(916) 651-4032

Wilmer Amina Carter

Wilmer Amina Carter
62nd Assembly District
(916) 319-2062

From: "Page, Bob-BOS" <bpage@sbcounty.gov>
To: "'kohaire@waterboards.ca.gov'" <kohaire@waterboards.ca.gov>
Date: 2/13/2007 5:32:31 PM
Subject: A-1824 [Rialto-Area Perchlorate contamination] -- hearing locatio n

Ms. O'Haire:

The County of San Bernardino has previously offered to host any hearings on the proposed clean up and abatement orders in the auditorium of a County facility in the City of Rialto. We want the State Water Board to know that we stand ready to host its hearing.

Please let me know as soon as you have an idea as to when the hearing might occur. The more lead time I have to reserve the auditorium (or relocate someone already scheduled to use it), the better.

Thank you.

Bob Page
Chief of Staff
for
5th District Supervisor Josie Gonzales
(909) 387-4565
bpage@sbcounty.gov

CC: "Kurt Berchtold (E-mail)" <kberchtold@waterboards.ca.gov>, "Smith, Lisha (BOS)" <lsmith@sbcounty.gov>

Betsy Jennings - Re: ccaej RIALTO-AREA PERCHLORATE CONTAMINATION

From: Betsy Jennings
To: Diaz, Davin
Date: 2/14/2007 9:25 AM
Subject: Re: ccaej RIALTO-AREA PERCHLORATE CONTAMINATION
CC: Perchlorate

Mr. Diaz:

I received the attached letter from you. Please note that if your group wishes to participate as a party, you should participate in the pre-hearing conference that was noticed yesterday. (The notice is attached also to this email.) In addition, it is imperative that any emails you send **you must send to the entire email list** to which this email is copied. Finally, any letter mailed hard copy should be copied to the Regional Water Board and to the Potentially Responsible Parties, pursuant to our regulations. If you would like to be included in the list who will receive emailed correspondence, please let me know.

Elizabeth (Betsy) Miller Jennings
Staff Counsel IV
State Water Resources Control Board
1001 I Street, 22nd floor
Sacramento, CA 95814
phone: 916-341-5175
fax: 916-341-5199
cell: 916-799-5417
email: bjennings@waterboards.ca.gov

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>>> "Davin Diaz" <davin.d@ccaej.org> 2/13/2007 5:05:35 PM >>>

Mr. Howard, please consider the attached letter in all matters regarding the Rialto Area Perchlorate Contamination Cleanup.
Thank you.

Davin Diaz
Director
San Bernardino Office

Center for Community Action
and Environmental Justice
255 North "D" Street, Suite 402
San Bernardino, CA 92401
p. 909-381-8883
f. 909-381-8893
davin.d@ccaej.org
www.ccaej.org

From: Tam M. Doduc
To: alice.dowdin.calvillo@GOV.CA.GOV
Date: 2/17/2007 5:06:47 PM
Subject: Re: Fw: Rialto Water background

Alice, per your request, attached is a short fact sheet. As the hearing officer in this matter, I am subject to the ex parte prohibition, but will designate someone to provide additional details and brief you further as needed. Thanks.

-Tam.

Tam M. Doduc, P.E.
State Water Resources Control Board
(916) 341-5611

>>> <alice.dowdin.calvillo@gov.ca.gov> 2/17/2007 9:53 AM >>>
The residents in Rialto are now asking, via the press, that the Gov declare a State of Emergency and supply them with clean drinking water. I remember this case when I was at DTSC. Please give me a status report from the Santa Ana regional board on the RP and cleanup and abatement orders. Do they need help? What is causing the delays here? Is DTSC involved, too?

This is time sensitive. Thanks Tam.
Thanks,
Alice Dowdin Calvillo
Chief Deputy Cabinet Secretary
Governor Arnold Schwarzenegger

-----Original Message-----

From: Dan Dunmoyer
To: Alice Dowdin Calvillo; Susan Kennedy; 'spkennedy4@aol.com'
<spkennedy4@aol.com>
Sent: Sat Feb 17 09:40:57 2007
Subject: Fw: Rialto Water background

Before you do Some history. D2

-----Original Message-----

From: Henry Renteria@oes.ca.gov <Henry_Renteria@oes.ca.gov>
To: Dan Dunmoyer <dan.dunmoyer@gov.ca.gov>; Frank McCarton
<frank.mccarton@oes.ca.gov>
Sent: Sat Feb 17 09:32:05 2007
Subject: Rialto Water background

Dan,
Here is some background info on the problem. This is an ongoing issue and battle between residents and the businesses.
If there is an immediate emergency need for water we can get it there.
I am still waiting to hear back from locals. *****

Background

The problem began back in the 1950's and 1960's when both companies owned and operated a weapons manufacturing plant in the northern part of Rialto that used massive quantities of rocket fuel.⁹ According to former employees at the plant, rocket fuel routinely leaked from the facility during operations and workers regularly disposed of rocket fuel in unlined pits behind the plant.¹⁰

Nestled near the foothills of the San Bernardino Mountains, the city had what local water officials described for decades as one of the purest drinking water supplies in the region. In the late 1990's, Rialto water officials discovered rocket fuel pollution in the city's drinking water supply up to 800 times safety recommendations issued in other states.¹¹ Despite their responsibility and years of negotiations, neither Goodrich Corp. nor Black & Decker have agreed to clean up the mess they have created.¹²

While the companies delay, many citizens of Rialto drink water that is polluted by rocket fuel. According to data supplied to local and state water officials, water from drinking water wells contaminated at up to three times the safety levels issued in other states is piped to homes in the city.¹³ At levels found in contaminated wells, perchlorate can lead to Attention Deficit Disorder, learning disabilities and decreased IQ.¹⁴ With several other wells unusable due to contamination, the drought-prone city teeters on the brink of running out of water. Residents have also been forced to pay water bill price hikes to pursue the polluters for clean water.¹⁵

The Santa Ana Regional Water Quality Control Board (Water Board) has the power to force Goodrich and Black & Decker to clean up their mess. Under the California Water Code, the Water Board can order both companies to fully clean up their pollution and provide the community with a safe water supply immediately, while the cleanup takes place.¹⁶ To protect the community, the Water Board should use these tools immediately. Environment California is working with the Center for Community Action and Environmental Justice and local water officials to convince the Water Board to stand up to the polluters and force Goodrich and Black & Decker to clean up their mess and provide the City of Rialto with an immediate supply of clean water.

On October 18th, 2006, the Santa Ana Water Board took the first step toward holding the Rialto polluters accountable and proposed a cleanup order against both Goodrich and Black & Decker that would:

- Stop the spread of perchlorate contamination throughout the region,
- Pay for full cleanup of all polluted Rialto wells and all contamination within the aquifer,

- Foot the bill for providing a safe, rocket-fuel free drinking water supply until cleanup is complete.

If adopted, the proposed order would also be the first order in the history of the California water boards to require that polluters reimburse taxpayers for all costs paid to date for stop-gap treatment measures.

The proposed order marks the culmination of more than a year of advocacy by Environment California and our partner organization, the Center for Community Action and Environmental Justice, who together mobilized thousands of public comments to the board, recruited hundreds of residents to attend water board meetings, secured the support of state legislators and local decision-makers, released several research reports and garnered significant media visibility for the need for a strong cleanup order.

The next step in the campaign, which Environment California and CCAEJ will focus on in the coming months, will be to ensure that the proposed order is adopted by the Santa Ana Regional Water Board and fully enforced and

ultimately that polluters are held accountable for returning clean water to Rialto.

The Water Board says it will decide whether to require strong cleanup measures and whether to require a safe alternative water supply for Rialto residents only after a year's delay.

On October 27, we delivered 1,000 petition signatures from local Rialto residents to the Water Board to immediately provide residents with a safe, secure supply of water. On Wednesday, November 16, the Board will decide whether to indefinitely delay any such order. Partnering with the Center for Community Action and Environmental Justice and several other local groups, Environment California Research & Policy Center will testify against any further delay.

Specifically, we ask the Santa Ana Water Board to order Goodrich Corp. and Black & Decker to provide a safe, secure water supply to the residents of Rialto by March 1, 2006, and order full cleanup of contamination by October 1, 2006.

Henry R. Renteria
Director
Governor's Office of Emergency Services

~~~~~  
(Message sent via BlackBerry)

CC: Howard, Tom; Jennings, Betsy; Lauffer, Michael; Rukeyser, William

## **Rialto-Area Perchlorate Contamination Fact Sheet**

### **What is the problem?**

- The Rialto-Colton Groundwater Basin is a source of drinking water to tens of thousands of San Bernardino County residents. Groundwater contamination in this basin was discovered in 1997.
- Twenty-two municipal wells belonging to four water purveyors have been shut down due to the presence of perchlorate in the Rialto Groundwater Basin.
- Perchlorate removal systems have been installed on 10 of the 22 closed wells. Water rates have increased in Rialto to pay for ongoing treatment costs, which has raised environmental justice issues.
- Perchlorate and its salts are used in solid propellant for rockets, missiles, and fireworks, and elsewhere (e.g., production of matches, flares, pyrotechnics, ordnance, and explosives).
- Perchlorate interferes with iodide uptake by the thyroid gland and can decrease production of thyroid hormones, which are needed for prenatal and postnatal growth and development, as well as for normal metabolism and mental function in the adult.

### **Is there an imminent public health risk?**

- There is no indication that any area residents are currently drinking water that could pose a threat.
- There is existing wellhead treatment and blending to ensure that drinking water delivered to residents meets the perchlorate drinking water public health goal (PHG) and action level set by the Office of Environmental Health Hazard Assessment (OEHHA) and the Department of Public Health, respectively.
- A PHG is the level of a chemical contaminant in drinking water that, based upon currently available data, does not pose a significant risk to health. In March 2004, OEHHA set PHG of 6 parts per billion (ppb) for perchlorate.

### **What has been done to date?**

- Since 2002, the Santa Ana Regional Water Quality Control Board (Regional Water Board) has been conducting an investigation of groundwater contamination in the area. The focus of the investigation has been facilities located on a 160-acre site in Rialto.
- The Regional Water Board has issued investigation orders, cleanup and abatement orders, and entered into interim agreements with potentially responsible parties (PRPs) to facilitate installation of treatment systems.

- The State has already provided \$6 million to help the affected water utilities purchase water treatment equipment. One of the PRPs has provided an additional \$4 million.
- In February 2005, the Regional Water Board's Executive Officer issued a Cleanup and Abatement Order (CAO) and subsequent amendments naming a number of responsible parties (RPs). The RPs include Goodrich, Emhart/Black & Decker, and Pyro Spectaculars.
- The named RPs petitioned the Regional Water Board to conduct a hearing to review the CAO. The Regional Water Board scheduled a hearing for October 2006, but the process was delayed by challenges from the RPs.
- Other steps taken by the Regional Water Board to proceed with the hearing have also been challenged in petitions filed by the various RPs.
- In light of the various objections and appeals, and the need to take action in an expeditious manner, the State Water Resources Control Board (State Water Board) on February 5, 2007, announced that it will review this matter on its own motion.

#### **What actions will the State Water Board take?**

- An evidentiary hearing will be conducted by the State Water Board to determine whether to amend or reissue the Cleanup and Abatement Order for the investigation and remediation of perchlorate in the Rialto area, or take such other action the State Water Board deems appropriate.
- On February 22, 2007, the State Water Board's hearing officer will conduct a pre-hearing conference to discuss the scope of the hearing, the designation of parties, and any other appropriate procedural issues.
- The evidentiary hearing will be held in the community of Rialto at the earliest possible date. [Note: the State Water Board anticipates that the hearing will commence by the end of March and continue into April.]
- The results of this hearing will determine which party(s) is/are responsible for the perchlorate contamination and will pay for cleanup and replacement water to the extent necessary.
- The hearings are part of the State Water Board's quasi-judicial functions and will be akin to a trial with the board member/hearing officer's role akin to that of a judge. The State Water Board will **not** be setting policy, but determining fact.

**Betsy Jennings - FW: SWRCB/OCC FILE A-1824**

**From:** "Marie Montoya" <MMontoya@reslawgrp.com>  
**To:** <bjennings@waterboards.ca.gov>  
**Date:** 2/27/2007 8:52 AM  
**Subject:** FW: SWRCB/OCC FILE A-1824

Dear Ms. Jennings: Per Ms. O'Haire's out of the office reply, I am forwarding my below request to your attention. Is there a form Subpoena you can send me other than the Federal and State Court Subpoena that will satisfy the requirements for the State Water Board?

**From:** Marie Montoya  
**Sent:** Monday, February 26, 2007 6:07 PM  
**To:** 'Karen O'Haire'  
**Subject:** SWRCB/OCC FILE A-1824

Dear Ms. O'Haire: Will you please send me copies of form Subpoenas appropriate for this matter both for appearance with documents and without. I would much appreciate the assistance. Thank you.

*Very truly yours,*

*Marie Montoya*  
Legal Assistant  
Resolution Law Group, P.C.  
3717 Mt. Diablo Blvd., Suite 200  
Lafayette, CA 94549  
Ph: (925) 299-5113  
Fax: (925) 284-0870  
e-mail: mmontoya@reslawgrp.com

~~~~~ **CONFIDENTIALITY NOTICE:**

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~~~~~

**From:** Rob Egel  
**To:** Betsy Jennings; James Giannopoulos  
**Date:** 3/1/2007 1:50:07 PM  
**Subject:** Re: briefing for Linda Adams on perchlorate

Attached is the fact sheet for Linda. I have shown in track changes the additional two sentences to reflect DTSC's activities in the area. I recognize that it is a bit incongruent to the document, but DTSC has asked to include a mention of their activities at the Denova site. If you are OK with it, accept changes and print it out. I am also in a meeting from 2:00 - 3:00. Rob

>>> Betsy Jennings 3/1/2007 1:35 PM >>>

I will be in a briefing with Charlie starting at 2. At this point, I assume I will give Linda the existing fact sheet. Betsy

>>> Rob Egel 3/1/2007 11:34 AM >>>

Betsy and James, attached is the draft fact sheet. I am waiting for DTSC's input and then will re-route through OCC and then finalize for Tom. I hope to have a final before the meeting.

FYI, I have also attached the fact sheet from OEHHA/State Water Board/DTSC on perchlorate generally. Rob

>>> Tom Howard 3/1/2007 11:19 AM >>>

The meeting is from 3 - 4 in 2540.

Attendees should be James Giannopoulos and Betsy Jennings. James should provide maps if possible of (1) a California map showing perchlorate pollution sites and (2) a map of the Rialto area showing pollution plumes.

It would be preferable if Rob gives these two attendees the issue papers for Linda so they can hand to her during the briefing.

Kurt, please be available for a phone call if necessary to provide Linda with local perspective. I do not know if it will be necessary. I do not think James is involved in the hearing so he can participate with Kurt but Betsy will have to leave.

Rob will be coordinating this so direct all phone calls to him.

**CC:** Michael Lauffer; Tom Howard



## STATE WATER BOARD

### WATER QUALITY

**Issue:** Perchlorate Contaminated Groundwater in Rialto/Colton

**Background:**

Since 2002, the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) has been conducting an investigation of groundwater contamination in the area of the City of Rialto. The focus of the investigation has been facilities located on a 160-acre site in Rialto. In 2005, the Santa Ana Water Board Executive Officer issued a Cleanup and Abatement Order. The order provided that it would not require any specific activities until after the Santa Ana Water Board conducted an evidentiary hearing on responsibility and cleanup requirements. On October 27, 2006, the Executive Officer proposed amending the order and naming additional responsible parties.

The Cleanup and Abatement Order and proposed amendments are the subject of challenges in petitions filed by various entities named as responsible parties. (Among these are Kwikset, Black & Decker and Goodrich, and Pyro Spectaculars). The parties responsible for perchlorate contamination must pay for the cleanup in Rialto/Colton and the extra costs of providing acceptable water. In light of the various objections and appeals, and the need to take action in an expeditious manner, the State Water Resources Control Board (State Water Board) notified the parties on February 5, 2007 that it would review this matter "at the earliest possible date."

The State Water Board Chair will act as the hearing officer, and will conduct an evidentiary hearing in Rialto on March 28-30 and April 4-5 to determine whether to amend or reissue the Cleanup and Abatement Order requiring the investigation and remediation of perchlorate in the Rialto area, or to take such other action the State Water Board deems appropriate. The results of this hearing will determine which party(s) is/are responsible for the perchlorate contamination and will pay for cleanup and replacement water to the extent necessary. The hearings are part of the State Water Board's quasi-judicial functions and will be akin to a trial with the board member/hearing officer's role akin to that of a judge. The State Water Board will **NOT** be setting policy, but determining fact.

Practical effects in Rialto/Colton presently include the non-use of some wells and the use of other with necessary treatment equipment (to remove perchlorate) installed at the well held. Water users currently pay surcharges because of the extra costs incurred by the municipal water district and the water company in the area. This issue has attracted considerable and extended attention from local media, residents and local elected officials. The area includes many lower socio-economic residents and members of minorities thereby raising Environmental Justice issues.



## ISSUE SUMMARY

### Questions/Answer

1. What are the State Water Board and Regional Water Board Doing to Protect the Health of the Citizens of Rialto?

- The citizens of Rialto are receiving safe, potable drinking water that meets all the relevant health criteria. Where a public drinking water well has been adversely impacted by perchlorate, the Santa Ana Water Board and the Department of Health Service working with local water officials have had the well shut down. Some wellhead treatment has been put in place to assure safe drinking water.

The focus of the Santa Ana Water Board's effort has been on protecting the ground water resource, so that the area can continue to rely on its local aquifers as a source of drinking water. The Santa Ana Water Board has issued investigation and cleanup orders to a number of parties. Most responsible parties are complying with Santa Ana Water Board orders. The Cleanup and Abatement Order that is subject to State Water Board review is the primary exception. In that regard, the Santa Ana Water Board has faced significant legal challenges. The State Water Board has just begun its review and is commencing a hearing later this month.

2. Why Did the State Water Board Decide to Take This Issue Up On Its Own Motion?

- While the Santa Ana Water Board had been making progress on the Rialto-area perchlorate investigations, responsible parties had used expensive, time-consuming legal maneuvers to avoid an evidentiary hearing assigning responsibility for cleanup. The potentially responsible parties had alleged bias by the Santa Ana Water Board members and raised procedural challenges to an alternate hearing process the Santa Ana Water Board considered. In the interest of efficiency and to avoid further delays, the State Water Board decided to review and consider the Cleanup and Abatement Order on its motion.

3. When Will the State Board Make a Decision?

- A decision is likely this summer. The State Water Board anticipates five days of evidentiary hearings from March 28-30 and April 4-5. After the evidentiary hearings, the parties will submit final, closing briefs sometime in April or early May. The State Water Board's Hearing Officer, Tam Doduc, will then prepare a formal recommendation to the other State Water Board members that will be considered at a public meeting later this spring or summer.

## ISSUE SUMMARY

### Status

- Tam Doduc, Chair of the State Water Resources Control Board will conduct an evidentiary hearing in Rialto on March 28-30 and April 4-5 to determine whether to amend or reissue the Cleanup and Abatement Order requiring the investigation and remediation of perchlorate in the Rialto area, or to take such other action the State Water Board deems appropriate. The results of this hearing will determine which party(s) is/are responsible for the perchlorate contamination and will pay for cleanup and replacement water to the extent necessary.

*Office of Environmental Health Hazard Assessment  
Department of Toxic Substances Control  
State Water Resources Control Board*

Perchlorate

**Significant Issue**

Perchlorate, a chemical component of rocket fuels, roadside flares, fireworks and Chilean fertilizer, has been detected in more than 525 public drinking water wells in California. A number of these wells have been taken out of service or are being treated. The Colorado River also contains detectable levels of perchlorate, originating from a former perchlorate-manufacturing facility in Henderson, NV. In addition to California, 32 other states have found perchlorate in their drinking water. The general U.S. population is also exposed to perchlorate in food, because various foods grown with perchlorate-contaminated water can accumulate the chemical.

Perchlorate inhibits the uptake of iodide into the thyroid gland, which may lead to decreased thyroid function, posing a particular problem for pregnant women, their fetuses, and infants.

**Background/Discussion**

High perchlorate concentrations were detected in groundwater beneath the Aerojet facility in Rancho Cordova dating back to the 1950s. In 1996, the U.S. Environmental Protection Agency (U.S. EPA) reported that low concentrations of perchlorate created a risk to public health. In 1997, a new analytical method lowered the detection limit for perchlorate in drinking water from 400 parts per billion (ppb) down to 4 ppb. Within a short time, perchlorate was discovered in groundwater at or near several California plants that provided and tested rockets for the U.S. military. It is likely that past product- and waste-management methods allowed large releases of perchlorate into drinking water aquifers and the Colorado River. The Regional Water Quality Control Boards and the Department of Toxic Substances Control (DTSC) have been investigating industrial facilities, military sites and other possible sources. It is too early to tell what total cleanup costs will be.

Intense efforts have been mounted in California and other states to determine safe levels of perchlorate exposure and develop drinking water standards. In 2004, California became the first state to develop a Public Health Goal (PHG) for the contaminant when the Office of Environmental Health Hazard Assessment (OEHHA) published a PHG of 6 ppb. The Department of Health Services (DHS) currently is proposing a state Maximum Contaminant Level of 6 ppb. Massachusetts has set a state MCL of 2 ppb, while New Jersey has proposed an MCL of 5 ppb. Several other states have drinking water guidelines ranging from 1 to 18 ppb. U.S. EPA has developed a non-regulatory drinking water number of 24.5 ppb, but unlike the various state numbers, the federal level does not account for probable exposure to perchlorate through food.

**Question/Answer**

*What steps has Cal/EPA taken in response to a major new federal study of perchlorate's effect on the thyroid?*

A U.S. Centers for Disease Control and Prevention (CDC) study published in October 2006 found an association between relatively low perchlorate exposure levels and changes in thyroid hormones in women with low iodide excretion. Several environmental groups have cited the study as a major reason for their recent request for OEHHA to initiate an early review of its 2004 PHG. OEHHA recently completed a thorough assessment and reanalysis of the CDC data, and replicated the CDC's findings. OEHHA has also discussed its analyses with the lead author of the CDC study.

OEHHA believes it would be premature to initiate an early review of the PHG for perchlorate because it needs further clarification on key issues concerning the significance of perchlorate exposures. The CDC is

currently conducting a follow-up study in which it is analyzing data from the two-thirds of the volunteers in its nationwide survey whose samples were not included as part of the 2006 CDC study. (That study only analyzed perchlorate in one-third of the samples.) OEHHA will be in a better position to interpret the results of the original findings after this confirmatory study is completed.

Further inquiry into questions raised by the CDC study and other new data on perchlorate will help ensure the highest quality of OEHHA's upcoming 2009 review of the perchlorate PHG, which is mandated by state law.

What steps has Cal/EPA taken to address cleanup of perchlorate in groundwater?

- DTSC and the Water Boards have aggressively pursued investigation and cleanup at over 35 facilities. In a number of cases the Water Boards have required the responsible parties to provide alternate water supply or treated water. These include significant sites in Morgan Hill, Redlands, Riverside, Rialto-Colton, Hollister, Santa Clarita and Rancho Cordova. The Water Board initiated the first perchlorate remediation in the country at the Aerojet facility in Rancho Cordova in 1997.
- The Water Boards, DTSC, and U.S. EPA have targeted areas where a number of public supply wells exceed the perchlorate PHG in order to identify sources and responsible parties. Each agency has investigated a number of these areas. CalEPA, DTSC, and the Water Boards developed a prioritization protocol with the Department of Defense and have implemented investigations at facilities not already under cleanup.
- The State Water Board has provided direct aid in the form of State Water Board Cleanup and Abatement Account funds and Proposition 50 bond funds for water treatment at the well-head prior to distribution and use in the Rialto-Colton area, where 20 public supply wells had been taken out of service.

Status

- OEHHA staff scientists are maintaining regular contact with CDC scientists and risk assessors throughout the United States on matters pertaining to perchlorate.
- Cal/EPA has established a federal and state agency monthly roundtable discussion addressing all aspects of perchlorate in California, including standard setting, sampling and assessment technologies, investigation approaches, and treatment technologies to ensure all agencies involved are well informed and coordinate activities.
- Perchlorate levels in the Colorado River have fallen well below 6 ppb, due to continued cleanup and contamination control activities. This alleviates the concern over the Colorado River as a drinking water source, but questions remain over the perchlorate uptake in plants when the water is used for agricultural irrigation.
- Several major sites of perchlorate releases (such as Rialto/Colton, Morgan Hill, and Rancho Cordova) will require monitoring and cleanup activities for decades.
- Public drinking water supplies have been monitored for perchlorate for several years, with heavily contaminated wells being taken out of service or the water treated to remove perchlorate. However, the cost burden for water treatment is significant, and removal of wells from service has decreased available water supplies, which might prove a particular problem in the event of a prolonged drought.
- A major and ongoing effort of the Water Boards is to identify responsible parties. Once identified, Water Boards can and do require responsible parties to provide replacement water or to treat perchlorate-contaminated water as a part of the cleanup process.
- Private drinking water wells, which are not regulated in California, continue to be a source of perchlorate exposure (and a potential health risk) for certain rural populations. In Morgan Hill, the Central Coast Water Board required Olin to provide replacement water to owners of private wells exceeding the perchlorate PHG.

**From:** "John Van Vlear" <VV@vctlaw.com>  
**To:** "Karen O'Haire" <KOHaire@waterboards.ca.gov>  
**Date:** 3/8/2007 4:46:41 PM  
**Subject:** RE: Rialto-Recording Proceedings?

Hey thanks, great detailed answer.

John Van Vlear

-----Original Message-----

From: Karen O'Haire [mailto:KOHaire@waterboards.ca.gov]  
Sent: Thursday, March 08, 2007 4:24 PM  
To: John Van Vlear  
Cc: Betsy Jennings; James Herink; Michael Lauffer  
Subject: Re: Rialto-Recording Proceedings?

Mr. Van Vlear, Any person attending the hearing has the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera. A person would only be restricted from recording the hearing if the Hearing Officer found that the recording constituted a persistent disruption of the hearing due to noise, illumination, or obstruction of view. California Government Code section 11124.1. The State Water Board has not yet determined whether it will record the hearing using a video recorder.

Karen A. O'Haire  
Sr. Staff Counsel  
State Water Resources Control Board  
1001 I Street  
Sacramento, Ca. 95812

telephone: (916) 341-5179  
fax: (916) 341-5199  
e-mail: kohaire@waterboards.ca.gov

>>> "John Van Vlear" <VV@vctlaw.com> 3/5/2007 3:42 PM >>>  
Is there anything prohibiting (or I guess restricting) a member of the public or the media from video recording (just a guy in the back with a video camera on a tripod) the State Water Board hearings starting March 28th? I presume the State is not going to do so, correct?

JVV

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John E. Van Vlear, Esq., R.E.A.  
Voss, Cook & Thel LLP  
895 Dove Street, Suite 450  
Newport Beach, CA 92660  
(949) 435-4338  
VV@VCTLaw.com

**From:** Dorothy Rice  
**To:** Zwarts, Patty  
**Date:** Mon, Mar 26, 2007 1:50 PM  
**Subject:** Re: lunch??

Wednesday would be great! thanks Patty.

>>> "Zwarts, Patty" <PattyZ@CALEPA.ca.gov> 3/26/2007 1:46 PM >>>  
Dorothy

I would love to and it was nice to see you this morning. I am pretty full this week but I am open this wed. Does that work? We just had a meeting with Gov. Wilson about the Rialto-Coulton cleanup and he wants Linda to take the site cleanup away from the SWRCb. And give it to DTSC. Oh boy. Linda wants to talk to SWRCB.

Patty

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Sent from my BlackBerry Wireless Handheld

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Sent from my Blackberry Wireless Handheld.

-----Original Message-----

From: Dorothy Rice <[DRice@waterboards.ca.gov](mailto:DRice@waterboards.ca.gov)>  
To: Zwarts, Patty  
Sent: Mon Mar 26 12:02:38 2007  
Subject: lunch??

Patty - I was wondering if you have time for lunch one day this week - it would be great to catch up and get your perspective on water board priorities. let me know if any day is good for you - thanks!

**From:** Bonnie Hard  
**To:** Lanich, Steve  
**Date:** 4/6/2007 3:45:01 PM  
**Subject:** Re: FW: Congressional Field Hearing on Perchlorate & Groundwater

Mr. Lanich,

I wanted to make sure you knew that Mr. Baggett cannot attend, however, Phil Wyels from our Office of Chief Counsel will be there. Thank you. Bonnie

>>> "Lanich, Steve" <Steve.Lanich@mail.house.gov> 4/3/2007 9:27:07 AM >>>  
Bonnie -- I'm forwarding to you the e-mail I sent to Mr. Baggett last Friday.

If you could help us determine whether Mr. Baggett could testify at our subcommittee hearing next Tuesday in Pomona, I would sincerely appreciate that.

If he's not able to testify, could you recommend someone else at the SWRCB who might be appropriate? As I noted in my original e-mail to Mr. Baggett, we were not able to secure a witness from the Santa Ana Regional Board.

Thanks for your help.

Steve Lanich

Staff Director

Subcommittee on Water and Power

Committee on Natural Resources

1522 Longworth Bldg.

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Other e-mail: [steve.lanich@verizon.net](mailto:steve.lanich@verizon.net) <<mailto:steve.lanich@verizon.net>>

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From: Lanich, Steve  
Sent: Friday, March 30, 2007 3:53 PM  
To: '[abaggett@waterboards.ca.gov](mailto:abaggett@waterboards.ca.gov)'



Subject: Congressional Field Hearing on Perchlorate & Groundwater

Dear Mr. Baggett:

Robert DeLoach of the Cucamonga Valley Water District suggested I contact you.

The House Subcommittee on Water and Power has scheduled a hearing on April 10 in Pomona to consider perchlorate contamination of groundwater supplies in that area. I have attached the official hearing notice for your information. The Subcommittee is chaired by Rep. Grace Napolitano. We also expect Reps. Joe Baca and Hilda Solis to attend the hearing.

We have assembled what I think is an excellent witness lineup, but we lack a witness who can help the subcommittee understand the legal and regulatory framework under which perchlorate is considered. We contacted the Santa Ana Regional Board, but Mr. Thibeault will be out of the country April 10, and other representatives of the Regional Board are apparently consumed with PRP depositions and the like, and will not be available to testify.

Robert DeLoach suggested I contact you to inquire if you would be available as a witness for this hearing.

Other witnesses include SAWPA, local water supply agencies, the City of Rialto, the Center for Community Action and Environmental Justice, and the Metropolitan Water Dist of Southern California.

It would be of great assistance to our subcommittee if you were able to appear as a witness on behalf of the SWRCB. I look forward to hearing from you.

Thank you for your consideration.

Steve Lanich

Staff Director

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Committee on Natural Resources

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<<http://resourcescommittee.house.gov/>> <http://resourcescommittee.house.gov>

Other e-mail: [steve.lanich@verizon.net](mailto:steve.lanich@verizon.net) <<mailto:steve.lanich@verizon.net>>

**From:** Ted Cobb  
**To:** Berchtold, Kurt; Thibeault, Gerard  
**Date:** 4/19/2007 2:54:11 PM  
**Subject:** Re: AB 1127 (Carter)

Jerry Thibeault should make the call on this one.

Ted Cobb  
Assistant Chief Counsel  
State Water Resources Control Board  
(916) 341-5171

>>> Loti Calliga 4/19/2007 2:40:53 PM >>>

This bill was recently amended to apply to the City of Rialto: drinking standards and perchlorate. Let us know if you want to do anything other than track it. Thanks.

Loti E. Calliga  
Legislative Analyst  
Office of Legislative Affairs  
(916) 341-5959

**CC:** Babcock, Lisa; Bacharowski, David; Bishop, Jonathan ; Cain, Stephen; Calliga, Loti; Gallardo, Laura; Giannopoulos, James; Lauffer, Michael; O'Haire, Karen